



BIHAR STATE TOURISM DEVELOPMENT CORPORATION LTD
A Govt of Bihar Undertaking



**Request for Proposal (RFP) for
Selection of Transaction Advisor
For
Long Term Leasing Out
Hotel Patliputra Ashok, Patna**

Bihar State Tourism Development Corporation Ltd
Beer Chand Patel Path
Patna - 800001
Phone - +91 612 2222622
Fax No - +91 612 2506218
Email - contactbstdc@gmail.com
Web - www.bstdc.bih.nic.in

DISCLAIMER

The information contained in this Request for Proposal document (“RFP”) or subsequently provided to Applicants, whether verbally or in documentary or any other form by or on behalf of the Authority or any of its employees or advisers, is provided to Applicants 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 neither an agreement nor an offer by the Authority to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise 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 completed, accurate, adequate or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

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

The Authority, its employees and advisers make no representation or warranty and shall have no liability to any person including any Applicant 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, reliability or completeness 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 Selection Process.

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

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

The issue of this RFP does not imply that the Authority is bound to select an applicant or to appoint the selected applicant, as the case may be, for the consultancy and the Authority reserve the right to reject all or any of the proposals without assigning any reasons whatsoever.

The applicant 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 fee, expenses associated with any demonstration or presentation which may be required by the Authority or any other cost incurred in connection with or relating to its proposals. All such costs and expenses will remain the responsibility of the applicant and the Authority shall not be liable in any manner whatsoever for the same or for any other cost or other expenses incurred by an applicant in preparation or submission of proposal, regardless to the conduct or outcome of the selection process.



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BIHAR STATE TOURISM DEVELOPMENT CORPORATION LTD
A Govt of Bihar Undertaking

REQUEST FOR PROPOSAL FROM COMPANY, FIRMS AND PROPRIETORSHIP
for
Selection of Transaction Advisor For Long Term Leasing Out of
Hotel Patliputra Ashok, Patna

No. 03/04/CS/18-19/16/19

Date:03.01.2019

1. Invitation for RFP for Selection of Transaction Advisor

1. Bihar State Tourism Development Corporation Ltd. (BSTDCL) represents a Government company constituted by the Government of Bihar under the Companies Act, 1956 and is mandated with the development and promotion of various Tourism development schemes in the state. It has 19 units. The objective of the company is to accelerate the development and promotion of tourism in the State of Bihar
2. BSTDCL invites Proposals from eligible and reputed Company, Firm or Proprietorship for Transaction Advisor for Long Term Leasing out Hotel Patliputra Ashok, Patna.
3. BSTDCL reserves the right to accept or reject any or all proposals without incurring any obligation to inform the affected applicant/s of the grounds.
4. All information contained in this RFP should be treated as commercially confidential and should be disseminated on a need to know basis. The dates for the submission and opening of the Bids are as follows:

1	Date of documents downloading	18.01.2019
2	Date of Pre – proposal conference	21.01.2019 at 3 PM
3	Last Date and Time of submission of Bid	25.01.2019 up to 1 PM
4	Date and Time of opening Technical Bid	25.01.2019 at 3 PM
5	Date and Time of opening Financial Bid	To be informed
4	Tender Fees	Rs 25,000/- payable by separate Demand Drafts drawn on any Nationalised Bank payable in favour of MD Bihar State Tourism Development Corporation Ltd., Patna
5	Earnest Money Deposit	Rs.100,000/- payable by separate Demand Drafts drawn on any Nationalised Bank payable in favour of MD Bihar State Tourism Development Corporation Ltd., Patna
6	Place of opening of the bids and Pre-bid meeting	Conference Hall, Hotel Kautilya Vihar, Beerchand Patel Path, Patna, Bihar-800001.

5. No liability will be accepted by BSTDCL for downloading incomplete or incorrect document(s).
6. The Documents can be downloaded at the website: www.bstdc.bih.nic.in
7. Please note that while all the information and data regarding this RFP is to the best of Authority's knowledge accurate within the considerations of scoping the proposed project, the Authority holds no responsibility for the accuracy of this information and it is the responsibility of the proposed bidders to check the validity of data included in the document.

Sd/-
(General Manager)
B.S.T.D.C.L. Patna.

BSTDCL, Beerchand Patel Path, Patna -800 001
[Tel: 0612-2222622, 2506218 (fax) Email: contactbstdc@gmail.com]

2. Instruction to Applicants

Background

- 2.0.1. Bihar State Tourism Development Corporation Ltd. (BSTDC) represents a Government company constituted by the Government of Bihar under the Companies Act, 1956 and is mandated with the development of potential of tourism activities in the state. The objective of the company is to promote tourism activities in the state through better management of its hotels, vehicles and tourism sites, organising tourism and publicity events and bring a vibrant face of Bihar tourism to attract maximum tourist and ultimately put an important contribution in state GDP.
- 2.0.2. The Authority has decided for Long Term leasing of Hotel Patliputra Ashok, Patna situated at capital of Bihar, Patna.
- 2.0.3. With a view to inviting bids for the Project, the Authority has decided to conduct a study for determining viability of the Project. If found feasible and financially viable, the Project may be Leased out on long term basis to a private entity **(the "Concessionaire")** selected through a competitive bidding process. The Project would be implemented in accordance with the terms and conditions stated in the concession agreement to be entered into between the Authority and the Concessionaire **(the "Concession Agreement")**. Concessionaire may take his own decision with regard to running the property of Hotel Patliputra Ashok with major renovations, reconstruction or fully knocking down the building and reconstructing afresh taking advantage of the latest construction techniques, revised FAR applicable in the area, modern architecture etc. and relaunch the property as a modern new 5 Star Hotel.
- 2.0.4. In pursuance of the above, the Authority has decided to carry out the process for selection of a Transaction Adviser for preparing the various reports and bid documents. The Transaction Adviser shall appraise the Project, develop a revenue model and project structure, and assist the Authority in the bidding process, in accordance with the Terms of RFP documents.

2.0.1. Request for Proposal

The Authority invites proposals from interested firms **(the "Proposals")** for selection of a Transaction Adviser who shall develop a revenue model and appropriate structure for the Project **(the "Revenue Model")**, prepare bid documents for selection of the Concessionaire **(the "Bid Documents")** and assist the Authority in the bidding process (collectively the "Consultancy") for long term lease of Hotel Patliputra Ashok, Patna, Bihar.

The Authority intends to select the Consultant through an open competitive bidding process in accordance with the procedure set out herein. The Appointment of the Transaction Advisor shall be made on Quality and Cost Based Selection (QCBS).

2.0.2. Due diligence by Applicants

Applicants are encouraged to satisfy themselves fully about the assignment and the local conditions before submitting the Proposal by paying a visit to the Authority and the Hotel, sending written queries to the Authority, and attending a Pre-Proposal Conference on the date and time specified.

2.1 Scope of Proposal

- 2.1.1 Detailed description of the objectives, scope of services, Deliverables and other requirements relating to this Consultancy are specified in this RFP. In case an applicant firm possesses the requisite experience and capabilities required for undertaking the Consultancy, it may participate in the Selection Process. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP. **Participation of Joint Ventures & Consortiums are not allowed.**
- 2.1.2 Applicants are advised that the selection of Transaction Advisor shall be on the basis of an evaluation by the Authority through the Selection Process specified in this RFP. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and **that the Authority's decisions are without any right of appeal whatsoever.**

2.1.3 The Applicant shall submit its Proposal in the form and manner specified in this Section of the RFP. The Technical and Financial Proposal shall also be submitted in the forms prescribed in this RFP. Upon selection, the Applicant shall be required to enter into an agreement with the Authority in the form specified.

2.1.4 **Key Personnel**

The Transaction Advisor's team (the "Advisor Team") shall consist of the key personnel **(the "Key Personnel")** who shall discharge their respective responsibilities as specified in the RFP.

2.2 **Conditions of Eligibility of Applicants**

Applicants must read carefully the minimum conditions of eligibility **(the "Conditions of Eligibility")** provided at section – 12 of RFP. Proposals of only those Applicants who satisfy the Conditions of Eligibility will be considered for evaluation.

2.3 **Cost of Proposal**

The Applicants shall be responsible for all the costs associated with the preparation of their Proposals and their participation in the Selection Process including subsequent negotiation, visits to the Authority, Project site etc. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

2.4 **Visit to the Authority and verification of information**

Applicants are encouraged to submit their respective Proposals after visiting the office of the Authority and ascertaining for themselves the availability of documents and other data with the Authority, Applicable Laws and regulations or any other matter considered relevant by them.

2.5 **Acknowledgement by Applicant**

2.5.1 It shall be deemed that by submitting the Proposal, the Applicant has:

- (a) made a complete and careful examination of the RFP;
- (b) received all relevant information requested from the Authority;
- (c) accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.4 above;
- (d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.4 herein above, necessary and required for submitting an informed Application and performance of all of its obligations there under;
- (e) acknowledged that it does not have a Conflict of Interest; and
- (f) agreed to be bound by the undertaking provided by it under and in terms hereof.

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

2.6 **Right to reject any or all proposals**

2.6.1 Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection 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 thereof.

2.6.2 Without prejudice to the generality of Clause 2.6.1, the Authority reserves the right to reject any Proposal if:

- (a) at any time, a material misrepresentation is made or discovered, or

- (b) The Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.

Misrepresentation/ improper response by the Applicant may lead to the disqualification of the Applicant. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the Authority reserves the right to consider the next best Applicant, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

2.7 Contents of the RFP

This RFP comprises the Disclaimer set forth above, the contents contained herein and will additionally include any Addendum / Amendment issued in accordance with Clause 2.9:

2.8 Clarifications

- 2.8.1 Applicants requiring any clarification on the RFP may send their queries to the Authority in writing by speed post/ courier/ special messenger or by e-mail so as to reach before the date mentioned in the Data sheet/RFP. The envelopes shall clearly bear the following identification:

"Queries concerning RFP for "Selection of Transaction Advisor for Long Term Leasing of Hotel Patliputra Ashok, Patna "

The Authority shall endeavour to respond to the queries within the period specified therein but not later than 7 (seven) working days prior to the Proposal Due date (hereinafter to be referred as "PDD"). The responses will be sent by e-mail. The Authority will post the reply to all such queries on the Official Website and copies thereof will also be circulated to all Applicants who have purchased the RFP document without identifying the source of queries.

- 2.8.2 The Authority reserves the right not to respond to any queries or provide any clarifications, in its sole discretion, and nothing in this Clause 2.8 shall be construed as obliging the Authority to respond to any question or to provide any clarification.

2.9 Amendment of RFP

- 2.9.1 At any time prior to the deadline for submission of Proposal, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP document by the issuance of Addendum/ Amendment and posting it on the Official Website and by conveying the same to the prospective Applicants (who have purchased the RFP document) by e-mail.

- 2.9.2 All such amendments will be notified through e-mail to all Applicants who have purchased the RFP document. The amendments will also be posted on the Official Website along with the revised RFP containing the amendments and will be binding on all Applicants. Sr. No. 27 of data sheet of RFP any also be referred.

- 2.9.3 In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the PDD.

2.10 Language

The Proposal with all accompanying documents (the "Documents") and all communications in relation to or concerning the Selection Process shall be in English language and strictly on the forms provided in this RFP. No supporting document or printed literature shall be submitted with the Proposal unless specifically asked for and in case any of these Documents is in another language, it must be accompanied by an accurate translation of all the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

2.11 Format and signing of Proposal

2.11.1 The Applicant shall provide all the information sought under this RFP. The Authority would evaluate only those Proposals that are received in the specified forms and complete in all respects.

2.11.2 The Proposal, and its copy, shall be typed or written in indelible ink and signed by the authorised signatory of the Applicant who shall initial each page, in blue ink. In case of printed and published Documents, only the cover shall be signed. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be signed by the person(s) signing the Proposal. The Proposals must be properly signed by the authorised representative (**the "Authorised Representative"**) as detailed below:

- (a) by the proprietor, in case of a proprietary firm; or
- (b) by a partner, in case of a partnership firm and/or a limited liability partnership; or
- (c) by a duly authorised person holding the Power of Attorney, in case of a Limited Company or a corporation;

2.11.3 Applicants should note the PDD, as specified in Data sheet, for submission of Proposals. Except as specifically provided in this RFP, no supplementary material will be entertained by the Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of PDD as specified. Applicants will ordinarily not be asked to provide additional material information or documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected.

2.12 Technical Proposal

2.12.1 Applicants shall submit the technical proposal in the formats at Technical Proposal standard forms (**the "Technical Proposal"**).

2.12.2 While submitting the Technical Proposal, the Applicant shall, in particular, ensure that:

- a. all forms are submitted in the prescribed formats and signed by the prescribed signatories;
- b. power of attorney, if applicable, is executed as per Applicable Laws;
- c. CVs of all Key Personnel have been included;
- d. Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down in the RFP;
- e. no alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- f. the CVs have been recently signed and dated, in blue ink by the respective Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
- g. the CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP;
- h. Key Personnel proposed have good working knowledge of English language;
- i. Key Personnel would be available for the period indicated in the RFP;
- j. no Key Personnel should have attained the age of 75 years at the time of submitting the proposal; and
- k. the proposal is responsive.

2.12.3 Failure to comply with the requirements spelt out in this Clause 2.12 shall make the Proposal liable to be rejected.

2.12.4 If an individual Key Personnel makes a false averment regarding his qualification, experience or other particulars, he shall be liable to be debarred for any future assignment of the Authority for a period of 3 (three) years. The award of this Consultancy to the Applicant may also be liable to cancellation in such an event.

- 2.12.5 The Technical Proposal shall not include any financial information relating to the Financial Proposal.
- 2.12.6 The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Any such verification or the lack of such verification by the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.
- 2.12.7 In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, that one or more of the eligibility conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Transaction Advisor either by issue of the LOA or entering into of the Agreement, and if the Selected Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority, without the Authority being liable in any manner whatsoever to the Selected Applicant or Transaction Advisor, as the case may be.

In such an event, the Authority shall forfeit and appropriate the Performance Security, if available, as mutually agreed pre-estimated compensation and damages payable to the Authority for, INTER ALIA, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority.

2.13 Financial Proposal

While submitting the Financial Proposal, the Applicant shall ensure the following:

- (i) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc), accommodation, air fare, equipment, printing of documents, etc. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.
- (ii) The Financial Proposal shall take into account all expenses and tax liabilities. For the avoidance of doubt, it is clarified that all taxes shall be deemed to be included in the costs shown under the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per Applicable Laws.

2.14 Submission of Proposal

- 2.14.1 The Applicants shall submit the Proposal in hard bound form with all pages numbered serially and by giving an index of submissions. Each page of the submission shall be initialled by the Authorised Representative of the Applicant as per the terms of this RFP. In case the proposal is submitted on the document down loaded from Official Website, the Applicant shall be responsible for its accuracy and correctness as per the version uploaded by the Authority and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the downloaded or photocopied version of the RFP and the original RFP issued by the Authority, the latter shall prevail.
- 2.14.2 The Proposal will be sealed in an outer envelope which will bear the address of the Authority, RFP Notice title, Consultancy name as indicated and the name and address of the Applicant.

If the envelope is 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 Applicant.

- 2.14.3 The Bids should be submitted in the given formats failing which the same are likely to be rejected.
- 2.14.4 The Technical Proposal and Financial Proposal shall be typed or written in indelible ink and signed by the Authorised Representative of the Applicant. All pages of the original Technical Proposal and Financial Proposal must be numbered and initialed by the person or persons signing the Proposal.
- 2.14.5 The completed Proposal must be delivered on or before the specified time on PDD. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.
- 2.14.6 The Proposal shall be made in the Forms specified in this RFP. Any attachment to such Forms must be provided on separate sheets of paper and only information that is directly relevant should be provided. This may include photocopies of the relevant pages of printed documents.
- 2.14.7 The rates quoted shall be firm throughout the period of performance of the assignment upto and including discharge of all obligations of the Transaction Advisor under the Agreement.
- 2.15 Proposals received by the Authority after the specified time on proposal Due Date (PDD) shall not be eligible for consideration and shall be summarily rejected.

2.16 Modification/ substitution/ withdrawal of Proposals

- 2.16.1 The Applicant may modify, substitute, or withdraw its Proposal after submission, provided that written notice of the modification, substitution, or withdrawal is received by the Authority prior to PDD. No Proposal shall be modified, substituted, or withdrawn by the Applicant on or after the PDD.
- 2.16.2 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.
- 2.16.3 Any alteration / modification in the Proposal or additional information or material supplied subsequent to the PDD, unless the same has been expressly sought for by the Authority, shall be disregarded.

2.17 Performance Security

The Applicant, by submitting its Application pursuant to this RFP, shall be deemed to have acknowledged that without prejudice to the Authority's any other right or remedy hereunder or in law or otherwise, its Performance Security shall be forfeited and appropriated by the Authority as the mutually agreed pre-estimated compensation and damages payable to the Authority for, INTER ALIA, the time, cost and effort of the Authority in regard to the RFP, including the consideration and evaluation of the Proposal, under the following conditions:

- a) If an Applicant engages in any of the Prohibited Practices specified in Clause Fraud & corrupt practices of this RFP;
- b) if the Applicant is found to have a Conflict of Interest as specified in Clause of conflict of interest; and
- c) if the selected Applicant commits a breach of the Agreement.

2.18 Evaluation of Proposals

- 2.18.1 The Authority shall open the Proposals on the **PDD**, at the place & time specified in RFP and in the presence of the Applicants / duly authorised representative who choose to attend. The envelopes marked "Technical Proposal" and "bid Security" shall be opened first. The envelopes marked "Financial Proposal" shall be kept sealed for opening at a later date.
- 2.18.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.
- 2.18.3 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 only if:
- (a) the Technical Proposal is received in the form specified in RFP;
 - (b) it is received by the PDD including any extension thereof;
 - (c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.11 and 2.14;
 - (d) it is accompanied by the Power of Attorney as specified in Clause 2.2;
 - (e) it contains all the information (complete in all respects) as requested in the RFP;
 - (f) it does not contain any condition or qualification; and
 - (g) it is not non-responsive in terms hereof.
- 2.18.4 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.
- 2.18.5 Applicants are advised that Selection shall be entirely at the discretion of the Authority. Applicants shall be deemed to have understood and agreed that the Authority shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.
- 2.18.6 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 Applicant if the Consultancy is subsequently awarded to it.

2.19 Clarifications

- 2.19.1 To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.
- 2.19.2 If an Applicant does not provide clarifications sought under Clause 2.19.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

2.20 Negotiations

- 2.20.1 The Selected Applicant may, if necessary, be invited for negotiations. The negotiations shall generally not be for reducing the price of the Proposal, but will be for re-confirming the obligations of the Transaction Advisor under this RFP. Issues such as deployment of Key Personnel, understanding of the RFP, methodology and quality of the work plan shall be discussed during negotiations.
- 2.20.2 The Authority will examine the CVs of all other Professional Personnel and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.

2.21 Award of Consultancy

After selection, a Letter of Award (the "LOA") shall be issued, in duplicate, by the Authority to the Selected Applicant and the Selected Applicant shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Applicant is not received by the stipulated date, the Authority may, unless it consents to extension of time for submission thereof, cancel the LOA, forfeit Bid Security and the applicant shall be debarred from any work for next two years. Next highest ranking Applicant may be considered.

2.22 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement within the period prescribed in RFP. The Selected Applicant shall not be entitled to seek any deviation in the Agreement.

2.23 Commencement of Assignment

The Transaction Advisor shall commence the Consultancy within seven days of the date of the Agreement, or such other date as may be mutually agreed. If the Transaction Advisor fails to either sign the Agreement as specified in Clause 2.22 or commence the assignment as specified herein, the Authority may invite the second ranked Applicant for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled /terminated.

2.24 Fraud and Corrupt Practices

2.24.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the "Prohibited Practices") in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, INTER ALIA, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Applicant's Proposal.

2.24.2 Without prejudice to the rights of the Authority hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Transaction Advisor, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Transaction Advisor shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Applicant or Transaction Advisor, as the case may be, is found by the Authority to have directly 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.

2.24.3 For the purposes of this Clause, the terms shall have the meaning assigned to them:

- a) **"corrupt practice"** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection 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 Selection Process or the LOA or has dealt with matters concerning the Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or (ii) save as provided

herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical Transaction Advisor/ adviser of the Authority in relation to any matter concerning the Project;

- b) **"fraudulent practice"** means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- c) **"coercive practice"** means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person's participation or action in the Selection 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 Selection Process; or (ii) having a Conflict of Interest; and
- e) **"restrictive practice"** means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

2.25 Pre-Proposal Conference

2.25.1 Pre-Proposal Conference of the Applicants shall be convened at the designated date, time and place. Only those applicants, who have purchased the RFP document or downloaded the same from the Official Website of the Authority, shall be allowed to participate in the Pre-Proposal Conference. A maximum of two representatives of each Applicant shall be allowed to participate on production of an authority letter from the Applicant.

2.25.2 During the course of Pre-Proposal Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Selection Process.

3 General Information

3.1 WHO SHOULD RESPOND –Bihar State tourism Development Corporation Ltd , Government of Bihar undertaking, welcome response to the RFP from a National & International individual firm (the Sole Firm) subject to compliance with applicable laws, policies and guidelines of Government of Bihar, to provide Transaction Advisory Services. However, no applicant applying individually can be member of another Applicant. The term Applicant ("The Applicant") used means the Sole Firm as the case may be.

"The Applicant" may be consultant /transaction advisor having experience in advisory services in the field of "Hospitality and tourism Projects"

3.2 Consortiums are not allowed

3.3 Proposal should remain **valid for 180 days** from the proposal due date

3.4 The Transaction Advisers are required to submit separately sealed Technical Proposal and financial proposal. Email submissions are not allowed.

- a. Sealed envelope super scribed Envelope – I, along with name of work and details of Tender cost & Bid security, consisting of a Bank Demand Draft for tender cost (Non – Refundable) & another Draft for bid Security respectively for **"Selection of Transaction Advisor for leasing out of Hotel Patliputra Ashok, Patna."**
- b. Sealed envelope marked Envelope – II marked as **"Technical bid"** shall contain all the required documents and the tender documents, each page duly signed and stamped. The envelope shall be super

scribed as **ENVELOPE – II – Technical bid for “Selection of Transaction Advisor for leasing out of Hotel Patliputra Ashok, Patna”**.

- c. A separate sealed envelope marked **Envelope – III should contain FINANCIAL BID** as specified in this RFP. The envelope shall be super scribed as **ENVELOPE -III Financial Bid documents for “Selection of Transaction Advisor for leasing out of Hotel Patliputra Ashok, Patna”**.
- d. **All The three sealed envelope should be put in a separate sealed cover super scribed as Tender documents for “Selection of Transaction Advisor for leasing out of Hotel Patliputra Ashok, Patna”**. Each proposal (Technical and Financial separately) shall be hard/ spiral bound and serially numbered. Financial figures proposal and one original copy of the Financial Proposal.
- e. In case tender documents are downloaded from tender web site the tenderer should enclose the tender cost of **Rs. 25,000/-** (Rs. Twenty five Thousand only) (non-refundable).
- f. Bid Security and tender cost is payable by crossed Bank Draft only issued in favor of **Managing Director, Bihar State Tourism Development Corporation Ltd** by a Nationalized Bank or any Schedule Bank payable at Patna.
- g. The Bid Security shall be returned not later than 120 days from Proposal Due Date (PDD) except in case of the two highest ranked bidders. Bid Security of second ranked bidder shall be returned on signing of the agreement with the Transaction Advisor (hereinafter to be referred as **“TA”**).

Any Bid not accompanied with the tender cost & Bid Security shall be rejected as non-responsive.

Proposals must be submitted as per the notified date and time. Bid received after due date & time will not be entertained nor considered.

Notwithstanding anything to the contrary contained in, as and when payment become due to the Applicant for its Services, the Authority shall retain by way of Performance Security, 10% (ten per cent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause/s No. 9. The balance remaining out of the Performance Security shall be returned to the TA at the end of three months after the expiry of this Agreement pursuant to Clause hereof. For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security Authority may make deductions from the subsequent payments due and payable to Financial TA hereunder, as if it is appropriating the Performance Security in accordance with provisions of this Agreement.

- h. The Applicant may, in lieu of retention of the amounts as referred to in Clause above, furnish a Bank Guarantee substantially in the form specified at Annexure-7 of this Agreement.
- i. Performance Security: For the purposes of this Agreement, performance security shall be deemed to be an amount equal to 10% (ten per cent) of the Bid/Negotiated value (the **“Performance Security”**); provided that the Applicant shall not be required to provide Performance Security in the form of a bank guarantee or cash deposit.
- j. For details or information if any, representatives of the Transaction Advisory firms can contact the point of contact as mentioned. Please ensure that the meeting is fixed in advance to ensure availability of the concerned persons.

4 Introduction and Background

4.1 Project Description

- 4.1.1 The Bihar Tourism Development Corporation Ltd. (BSTDCL) a Government of Bihar Undertaking, under the administrative control of Department of Tourism, Govt. of Bihar has been the prime mover in the progressive development, promotion and expansion of tourism in the State of Bihar. The BSTDCL is running Hotels, Restaurants at various places for tourists, besides providing transport facilities and Ropeways in the state.

4.1.2 BSTDCL is also the Executing arm for the creation of infrastructure for Tourism like Hotels, Restaurants, Way side Amenities, convenience shops etc in the tourist places.

4.1.3 It is considered that the recently acquired property from Govt of India namely HOTEL PATLIPUTRA ASHOK, PATNA , BIHAR fully owned by BSTDCL need to be leased out on long term basis to be converted in to a five star property to be run by a large chain operating organisation of national or international stature.

4.1.4 The property is located in most premium location in the city of Patna, Bihar areas. BSTDC, Govt. of Bihar Undertaking, intends to lease out the property with the intent that the lessees after acquiring the property re-build it with major renovations or even rebuilding the property after fully knocking it down and taking benefit of the latest techniques of the design, construction and also getting the advantage of revised FAR.

4.1.5 A brief information note on "**Hotel Patliputra Ashok**" and the facilities in the property are attached in Appendix 1.

4.1.6 **The appointment of Applicant shall be made on quality and cost based selection (QCBS).**

BSTDC, Government of Bihar Undertaking, may accept or reject any bid without assigning any reason whatsoever. In case of dispute, the decision of **Managing Director, Bihar State Tourism Development Corporation Ltd** shall be final.

Tenderers are advised to inspect and examine the site and its surroundings and satisfy themselves before submitting their tenders as to the nature of the ground and sub-soil, the form and nature of the site, the means of access to the site, the accommodation they may require and in general shall themselves obtain all necessary information as to risks, contingencies and other circumstances Which may influence or affect their tender. A tenderer shall be deemed to have full knowledge of the site, whether he inspects it or not and no extra charges consequent on any misunderstanding or otherwise shall be allowed.

4.2 Objective

- The objective of BSTDCL is to assess the fair value of its Hotel property and to identify a suitable agency for handing over the property on long term lease to facilitate the process of restructuring.
- In order to arrive at the fair value of the property, a valuation exercise is to be conducted, using various methodologies. The values should be fair valuation at market price potential with multiple suitable methods in practice.

5 Brief scope of work

5.1 Stage I: Study and Planning Stage

5.1.1 The Transaction Advisor shall prepare the Financial Model which will take into account all costs and expenses related to the Project. This would also include Sensitivity Analysis in relation to the critical parameters of the Financial Model.

5.1.2 Designing of Detailed Strategy for leasing out of the said property.

5.1.3. Devise the framework and procedure including option of E-Auction for selection of Lessee for the Hotel of BSTDCL.

5.1.4. Advisor would develop the overall framework for the selection of Lessee. The framework would include the basic principles for the pre-qualification, evaluation and selection of the Lessee, the procedure for bidding, number of stages such as; "Request for Qualification" (RFQ) and "Request for Proposal" (RFP) stage. This would involve the following:

- I. Identification and evaluation of all possible alternative contractual structures for the Project and the nature of Financial and Commercial arrangement between DOT/ BSTDCL/State Govt. and the Lessee / Buyer.
- II. Recommending an appropriate contractual structure based on the objectives of the DOT/BSTDCL.
- III. Prepare the Concession Agreement to be signed by the DOT/BSTDCL with the selected Lessee.
- IV. Devise the detailed procedure for the selection of the Lessee.
- V. To coordinate / liaison with all concerned agencies DOT/ BSTDCL for all purposes relating to the said work.
- VI. To make presentations to DOT/BSTDCL as and when required by the said Authorities.
- VII. Evaluation of bidding interest for the proposed transaction.
- VIII. Prepare the framework for transfer/exit/absorption of employees of the property.
- IX. Prepare a frame work for transferring liabilities, court cases etc. to the successful bidder along with the property.
- X. Conduct road shows to generate interest in the potential bidders, if required.
- XI. Any other matter/component as desired by the Authority.

5.2 Requests for Qualification (RFQ) Stage.

The objective of RFQ stage is to identify and select the eligible bidders for submission of final proposal of the property. In this stage, the Advisor would:

- 5.2.1 Identify and select key qualification parameters for pre-qualifying the interested bidders using both qualitative (such as Project Development Capabilities, experience in the specific Industry, Managerial competence etc) and quantitative factors (such as turnover, asset base, financials etc).
- 5.2.2 Develop the evaluation methodology for pre-qualification of the bidders. This would involve selection of qualification parameters and assignment of appropriate weightage to each of them.
- 5.2.3 Prepare the RFQ (Request for Qualification) document. The RFQ document would contain the following:
 - a) Preliminary information memorandum detailing the technical characteristics of the Hotel property proposed to be leased along with broad business potential.
 - b) Detailed information on the framework and procedure for selection of the Lessee / Buyer.
 - c) Evaluation criteria and methodology of evaluation.
 - d) Proposed time schedule for the selection process.
 - e) Invite the bidders to submit RFQs and provide necessary information and clarification to the bidders for submission of RFQ.
 - f) Analyze the information submitted by the bidders in the RFQ on the basis of the evaluation methodology outlined in the RFQ.
 - g) Shortlist the bidders for submission of Request for Proposal (RFP).

5.3 Request for Proposal (RFP) Stage

- 5.3.1 The objective of RFP stage is to select the Lessee. The TA will prepare the Request for Proposal (RFP) and assist bid process for selection of the Concessionaire. The selection would be undertaken with a view to assess the preparedness of the bidder for fulfilling its obligations as the Lessee.
- 5.3.2 Devise format for Request for Proposal (RFP) including commercial and financial submission.
- 5.3.3 Identify acceptable deviation in the RFP.

The Advisor would specify the acceptable and unacceptable deviation in the bid and develop a methodology for adjusting for acceptable deviation along with its implication on the bid evaluation.

- 5.3.4 Develop the Commercial Bid Evaluation Methodology.

The Advisor would develop the commercial/financial bid evaluation methodology and identify and select the financial and commercial parameters on which the bidders would be required to submit their bids. The selection of these parameters, among other things, would depend upon, the overall objective of the Project.

5.3.5 RFP Document

The Advisor will prepare the RFP document, which would contain the following:

- a) Detailed Project Information Memorandum/Business Plan.
- b) Financial Projections.
- c) Proposed Contractual Structure
- d) Draft Concession Agreement
- e) Format for commercial Proposal
- f) Format for Financial Proposal
- g) Evaluation criteria and methodology etc..
- h) Any other document / process required.

5.4 Stage II: Implementation Stage: Bid Processing and Evaluation

The Advisor would prepare and issue the RFP to qualified bidders and invite their observations/suggestions and review the observation made by the bidders and incorporate necessary change in the RFP document, if any. Qualified bidders would be invited to submit the RFP. In this stage, the Advisor would:

- a) Arrange pre bid meetings, issue necessary clarifications and information required by the bidders.
- b) Process and evaluate the commercial and financial bids.
- c) Selection of Concessionaire and advise DOT/ BSTDCL/State Govt. accordingly.
- d) Assist DOT/BSTDCL/State Govt. in negotiating the Concession Agreement with the selected Lessee.
- e) Assist in obtaining approvals / permissions wherever required from Govt./ Authorities or otherwise.
- f) The scope of services specified are not exhaustive and the Transaction Advisor shall undertake such other tasks as may be necessary to appraise this project financially, prepare the Revenue/Financial Model and successfully complete the bid process for the project.

5.5 Deliverables

5.5.1 For Stage – I:

- a) Finalise a consolidated "Project Report Stage I" including Technical/Commercial reviews, Financial Model, Sensitivity Analysis, Leasing out options and draft RFQ;
- b) Lead discussions and assist BSTDCL Ltd and or any other person/authorities as directed by BSTDC in securing all formal approvals of above report and for RFQ launch;
- c) Lead Stakeholder consultations;
- d) Lead launch of RFQ in the market and shortlist the eligible parties; and
- e) Assist in all matters / preparation of all documents for the approvals.
- f) Assist DOT/BSTDCL Ltd./State Govt.-Authority in securing all required approvals from Govt. Agencies.

5.5.2 The detailed activities of Transaction Advisor shall include the following:

- I. **Prepare Review and Finalize the Financial Model:** The Transaction Adviser will assist in finalizing the valuation of the property and financial model, in the light of the results of the market assessment and private sector inputs.
- II. **Finalization of Project Structure:** The Transaction Adviser, in the light of the revised Financial Model and the qualitative and quantitative input received from the market surveys, present a final Project structure thereby balancing Value for Money for the Authority. Various commercial and legal options for Project structuring will be examined to recommend the most suitable lease structure etc.

- III. **Financing Plan:** The Transaction Adviser will identify and assess all possible options for the assignment.
- IV. **Bid Process Design and Bid Documents:** Post finalization of the Project Structure, the Transaction Adviser shall develop the Contract Documents (RFQ, Request for Proposal (RFP) etc), bid process and appropriate mechanism for the governance for the Project. Various bid Process designs including E-Auction (if required) will be evaluated and a suitable design shall be recommended for adoption. The RFQ, RFP and the Concession Agreement that are thus required shall be developed and presented to the concerned Authorities for approval.
- V. **Conducting the Bid Process:** The Transaction Adviser will assist with the Bid Process Management, including finalization of Financial Model, preparation of bid documents and criteria, a Request for Proposal (RFP) launch, formulation of responses to bidder queries, bid evaluation and recommendations as per criteria's in the RFP document, recommending an agency, contract negotiations and bid closure which are required to be undertaken, for bringing the Project to the stage of completion.
- VI. Any other activity as desired and agreed with the Authority

5.5.3 Deliverables for Stage II

The Transaction Adviser will:

- b) Develop a Report containing Financial Model results, and final transaction structure;
- c) Finalise bid documents including Draft Concession Agreements; and
- d) Assist the Authority with Bid Process Management and award of the Project.

6 Duration of Services

The Transaction Advisor will work for the Authority till final/signing stage of the concession agreements for the above Project.

The Transaction Adviser must deploy sufficient manpower inputs to comply with the Scope of Services.

7 Deliverables

The deliverables of the Project are as follows:

S.No.	Deliverables	Timeline from the date of commencement
1	Inception Report	10 days
2	Detailed Report & Financial Model	40 days
3	Issue of RFQs	55 days
4	Pre-bid conference	65 days
5	Submission of RFQ	75 days
6	Evaluation of RFQ documents	90 days
7	Issue of RFP documents	100 days
8	Submission of RFP	125 days
9	Finalisation of bids and submission of	135 days
10	Signing of Concession Agreement	140 days

8 Payment Schedule

The following table details out the payment structure against the deliverables for each sub- project:

S.No.	Deliverables	Percentage of Payment
1	Detailed Report & Financial Model	15%
2	Issue of RFQ	5%
3	Evaluation of RFQ document	10%
4	Issue of RFP document	15%
5	Finalisation of Bids	15%
6	Signing of Agreement	40%

Note – It may be noted that the Authority reserves the right to foreclose the Project and assignment at any stage and the Firm shall be required to abide by the same. The due payment up to that stage shall be released to the Transaction Advisor on completion of deliverables up to that stage. No claim of any compensation or whatsoever in nature for such foreclose would be entertained or payable in this regard.

The payment shall be sequential and successive.

9 Project process for project methodology

This will vary for each output. However, recommendations should be based on

- (i) Analysis of the situation;
- (ii) Best Practice elsewhere;
- (iii) Feasibility based on the Govt. of Bihar norms, as well as dialogue and consensus with representatives of Bihar State Tourism Development Corporation Ltd, Govt. of Bihar undertaking.

The Transaction Advisers will work in close association with the Authority i.e. DOT /BSTDCL which is the implementing agency to take this work forward.

10 Requirement of transaction advisor

Transaction Advisers will be required to provide required qualified personnel including experts in the relevant sector, leasing properties preferably Hotels/ public-private partnerships, investment promotion, project preparation and appraisal, policy and legal issues. The Transaction Adviser will be required to be available at a short notice as and when required by Authority at their office in Patna.

All the prospective Transaction Advisers shall have sufficient qualified personnel, sub-Transaction Advisers, authorized valuer and resources to accomplish all the services described herein within the prescribed time. The Transaction Adviser should be capable of furnishing all necessary professional, technical, financial, legal and expert services as required to complete all the elements of Consultancy assignment described in the Scope of Work. Authority is seeking Transaction Advisor, which can bring together a team of professionals and sub-professionals capable of completing all aspects of the Consultancy assignment. This will require a high degree of management and technical expertise and experience directly related to similar jobs.

Key Personnel: The Consultancy Team shall consist of at least the following key personnel (the “Key Personnel”).

Key Personnel	Educational Qualification	Length of Professional Experience	Minimum Experience on Eligible Assignments
Team Leader (Lease / Real Estate Expert)	CA/MBA/Post Graduate in Civil Engineering	10 years	Transaction Advisory experience of leasing / transfer properties preferably Hotels including familiarity with project agreements, tendering arrangements, project structuring, risk management and successful project implementation of at least two hospitality / tourism/ real Estate projects
Finance Expert	CA/MBA(Fin)	10 years	Financial structuring of infrastructure projects, Model preparation, Risk analysis of at least two hospitality/ Infrastructure / tourism / Real Estate projects on leasing properties
Contract / Legal Expert	Law Graduate	10 years	Preparation of Contracts documents, Contract negotiation and successful project closure of at least two projects on leasing properties
Human Resource Expert	MBA (HRM)	10 years	Experience of handing HR related matters /VRS/HR policies for at least two projects on transferring properties/ Mergers / Acquisitions etc
Valuation Expert	Govt. Certified Authorized Valuer	10 years	Experience of undertaking valuation of at least two hospitality tourism / Real Estate projects.

Availability of Key Personnel: The bidder shall ensure that the above Key Personnel along with other sub-professionals, such as Architects, Structural Engineering expert, Environmental expert and Social safeguards expert, required for the assignment are available. The Authority will not normally consider any request of the selected bidder for substitution of Key Personnel during negotiations. Substitution, will, however be permitted if the Key Personnel is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.

Team leader proposed for assignment shall not be allowed to change. As a condition to such substitution, a sum equal to 10% (ten per cent) of the total fee shall be deducted. In the case of a second substitution hereunder, such deduction shall be 20% (twenty per cent). Any further substitution may lead to disqualification of "The Applicant" or termination of the Agreement.

11 **Terms and Conditions**

"The Applicant(s)" shall bear all costs associated with the preparation and submission of its proposal and contract negotiation.

All documents submitted by "The Applicant(s)" will be treated as confidential, and will not be returned to "The Applicant(s)".

Authority reserves the right to accept or reject any or all applications, without thereby incurring any liability to the affected Applicant(s) or any obligation to inform the Applicant(s). Authority also reserves the right not to award or enter into any contract or agreement with any Applicant(s), and may terminate the procurement process at any time without thereby incurring any liability to any Applicant.

Failure by any Applicant(s) to provide all of the information required in the proposal or any additional formation requested by Authority may lead to rejection of the Applicant's proposal in its entirety.

Applicant has an obligation to disclose any actual or potential conflict of interest. Failure to do so may lead to disqualification of the Applicant or termination of its Contract at any stage.

A recommendation for award of Contract will be rejected if it is determined that the recommended Applicant has directly, or through an agent, engaged in corrupt, fraudulent, collusive, or coercive practices in competing for the contract in question; in such cases the Authority will declare the Applicant ineligible, either indefinitely or for a stated period of time and Applicants will be blacklisted.

Wherever required by applicable laws, Authority shall deduct taxes at source, from the amounts payable, and shall provide to the Applicant the appropriate tax deduction certificate evidencing payment of such taxes.

The Applicant shall submit to Authority five (5) copies of the final output envisaged in the Scope of Services including the RFP and the Concession Agreement. All the reports and agreements shall be submitted on CDs (2 set) containing all basic as well as processed data.

In case of difference in Original and copy of submission the Original shall prevail.

12 **Conditions of eligibility of "the applicant"**

- 12.1 Applicant must read carefully the minimum conditions of eligibility (the "Conditions of Eligibility") provided herein. Proposals of only those Applicants who satisfy the Conditions of Eligibility will be considered for evaluation.

12.2 To be eligible for evaluation of its Proposal, the Applicant shall fulfill the following:

- (A) **Technical Capacity:** The Applicant shall have, over the past 7 (Seven) years, undertaken a minimum of 5 (Five) Assignments as specified in clause 14 (ii) and (iii) of which at least two projects shall be as per clause 14 (iii).
- (B) **Financial Capacity:** The Applicant shall have received a minimum of Rs.5 crore (Rs. five crore) per annum as professional fees during each of the three preceding financial years. For the avoidance of doubt, professional fees hereunder refer to fees received by the Applicant for providing advisory or consultancy services to its clients.
- (C) **Availability of Key Personnel:** The Applicant shall offer and make available all Key Personnel meeting the requirements specified in Sub-clause.

Conditions of Eligibility for Key Personnel: Each of the Key Personnel must fulfil the Conditions of Eligibility specified below:

Key Personnel	Educational Qualification	Length of Professional Experience	Minimum Experience on Eligible Assignments
Team Leader (Lease / Real Estate Expert)	CA/MBA/Post Graduate in Civil Engineering	10 years	Transaction Advisory experience of leasing / transfer properties preferably Hotels including familiarity with project agreements, tendering arrangements, project structuring, risk management and successful project implementation of at least two hospitality / tourism / real Estate projects.
Finance Expert	CA/MBA(Fin)	10 years	Financial structuring of infrastructure projects, Model preparation, Risk Analysis of at least two hospitality/ Infrastructure / tourism / Real Estate projects on leasing properties.
Contract / Legal Expert	Law Graduate	10 years	Preparation of Contracts documents, Contract negotiation and successful project closure of at least two projects

- 12.3 The Applicant shall enclose with its Proposal, certificate(s) from its Statutory Auditors stating its total revenues from professional fees during each of the past three financial years and the fee received in respect of each of the Eligible Assignments specified in the Proposal. In the event that the Applicant does not have a statutory auditor, it shall provide the requisite certificate(s) from the firm of Chartered Accountants that ordinarily audits the annual accounts of the Applicant.
- 12.4 The Applicant should submit a Power of Attorney as per the format provided at annexure 2, however, that such Power of Attorney would not be required if the Application is signed by a partner or Director (on the Board of Directors) of the Applicant.
- 12.5 Any entity which has been barred by the Central Government, any State Government, a statutory authority or a public sector undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of the Proposal, would not be eligible to submit a Proposal either by itself or through its Associate.
- 12.6 An Applicant or its Associate should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant or its Associate, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant or its Associate.
- 12.7 While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient. Alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

12.8 Conflict of Interest

The Applicant shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Applicant found to have a Conflict of Interest shall be disqualified. The interested parties may note that -

- 12.8.1 They would be required to submit a list of or disclose any mandated transactions which are in the same line of business as that of the company (being disinvested) in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser and confirm in writing that there exists no conflict of interest as on the date of submitting their proposal for appointment/ their appointment as Advisers in handling of the transaction and that, in future, if such a conflict of interest arises, the Adviser would immediately intimate the Government/Company (being disinvested) of the same. The Government/Company (being disinvested) shall at its sole discretion after providing due and reasonable opportunity decide whether such future conflict of interest shall materially adversely affect the interest of the Government and the Company (being disinvested) in relation to the transaction and shall be entitled to grant the consent to the Adviser to continue as Adviser or terminate the appointment of the Adviser. For disinvestment purposes, conflict of interest is defined to include engaging in any activity or business by the Adviser in association with any third Party, during the engagement, which would or may be reasonably expected to, directly or indirectly, materially adversely affect the interest of Government of Bihar and/ or the Company (being disinvested) in relation to the transaction, and in respect of which the Adviser has or may obtain any proprietary or confidential information during the engagement, that, if known to any other client of the Adviser, could be used in any manner by such client to the material disadvantage of Government of Bihar and/ or the Company (being disinvested) in the transaction.

- 12.8.2 The conflict of interest would be deemed to have arisen if any Adviser in respect of the transaction is appointed by a third party for advising or acting on behalf of or associated with any other person or entity

(including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser. Further, the decision of the Government/Company (being divested) as to whether such other person or entity is engaged in the same line of business as that of the Company being disinvested, shall be final and binding on the Adviser.

12.8.3 The conflict of interest would also be deemed to have arisen if any Adviser firm/ concern has any professional or commercial relationship with any bidding firm/ concern for the same disinvestment transaction during the pendency of such transaction. In this context, both Adviser firm and bidding firm would mean the distinct and separate legal entities and would not include their sister concern, group concern or affiliates etc. The professional or commercial relationship is defined to include acting on behalf of the bidder or undertaking any assignment for the bidder of any nature, whether or not directly related to disinvestment transaction.

12.8.4 They would also be required to give information and disclose that as on the date of submitting their proposal for appointment/ their appointment as Advisers in respect of the transaction, they are advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser.

In the event the Adviser fails to disclose that it is advising or acting on behalf of or associated with any other person or entity which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/ or the Company (being disinvested) is proposing to select or have appointed the Adviser, at the time of giving the afore-mentioned undertaking, the Government/Company (being disinvested) shall be entitled to terminate their appointment. Before terminating the appointment, a show cause notice stating why its appointment should not be terminated would be issued giving it an opportunity to explain its position.

12.9 Conviction by a Court of Law

12.9.1 Any conviction by a Court of Law or indictment/adverse order by a regulatory authority for a grave offence against the Advising concern or its sister concern would constitute a disqualification. In case such a disqualification takes place, after the entity has already been appointed as Adviser, the party would be under an obligation to withdraw voluntarily from the transaction process, failing which the Government would have the liberty to terminate the appointment/contract. Disqualification shall continue for a period that Government deems appropriate.

12.9.2 Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.

12.9.3 The disqualification criteria would come into effect immediately and would apply to all the Advisers already appointed by the Government for various disinvestment transactions, which have not yet been completed.

12.9.4 Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.

12.9.5 In case any investigation is pending against the concern or its sister concern or against the CEO or any of its Directors/Managers/Employees, full details of such investigation including the name of the investigating agency, the charge/offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government.

13 Submission of Proposal

Once submitted, the proposal, including the composition of the consulting team, cannot be altered without prior written consent of Authority. Standard Formats for submission of the Proposal are enclosed.

14 Evaluation and selection process (70:30)

The evaluation criteria for assessing the proposals of "The Applicant" are as follows, where in technical evaluation will have maximum 70 marks and financial evaluation will have maximum 30 marks.

Sr. No.	Technical Criteria	Particulars	Number	Maximum Points	Sub-Total Marks	Max. Marks
i.	Turn Over of "The Applicant"	Average Turn Over for the last three financial years i.e FY-2015-16, 2016-17 & 2017-18 (Submit audited balance sheet)	More than Rs. 50.00 Crs	100%		15
			40- 49.99 Crs	75%		
			30- 39.99 Crs	50%		
			20-29.99 Crs	25%		
			05 – 19.99 Crs	0%		
ii.	Transfer/Leasing properties/ PPP Experience of "The Applicant" to private Sector	Number of projects (successfully completed) in India and overseas in last seven years of minimum fees of Rs.10.00 lacs (provide certified copy of completion	More than 15 numbers	100%		10
			10 – 14 numbers	50%		
			03-09 numbers	25%		
			Below 03 numbers	0%		

		Certificates / Certificate from CA for receiving all payments on completion of the projects)				
iii.	Transfer/Leasing properties/ PPP Advisory experience of “The Applicant” to govt. agencies in Bihar	Number of projects advised on in Bihar (provide certified copy of award letter and completion Certificate /	More than 10 projects	100%		10
			08 – 10 projects	50%		
			04-07 Projects	25%		

		Certificate from CA for receiving all payments on completion of the projects)	Below 04 Projects	0%		
iv.	Technical approach and methodology					10
v.	Work Plan					10
vi.	Organisation and staffing for execution of the Project					5
vii.	Team Leader(Lease / Real Estate Expert)	CA/MBA/Post Graduate in Civil Engineering	More than 15 yrs experience	100%	3	10
			10- 15 yrs	50%		
viii.	Finance Expert	CA/MBA(Fin)	More than 15 yrs experience	100%	2	

			10- 15 yrs	50%	
ix.	Contract / Legal Expert	Law Graduate	More than 15 yrs experience 10- 15 yrs	100% 50%	2
x.	Human Resource Expert	MBA (HRM)	More than 15 yrs experience 10- 15 yrs	100% 50%	2
xi.	Valuation Expert	Govt. of Bihar Certified Authorised Valuer	More than 15 yrs experience 10- 15 yrs	100% 50%	1

The Applicant, who does not score the **minimum technical level of 40**, will not be considered for opening of Financial Proposal. Authority reserves the right to judge, appraise, and reject any or all proposals. It is clarified that credentials of only the lead member will be considered for evaluation.

Evaluation of Financial Proposal

For financial evaluation, total cost of financial proposal including service tax will be considered. The financial proposal shall be evaluated as follows:

Financial Proposal	lowest bid	100%	30 Marks obtained
	Other bids	Calculation of financial score : {(Minimum financial bid / Financial bid being considered)* 30}	

The financial evaluation will be carried out as mentioned above. For financial evaluation, the total cost indicated in the Financial Proposal will be considered. The Authority will determine whether the Financial Proposals are complete, unqualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services

Combined and Final Evaluation

Final scores will be arrived at by combining individual score obtained in technical and financial evaluation. The H-1 Selected Applicant shall be the Applicant having the highest combined score.

After finalization of detailed scope of work, terms & conditions, schedule, and professional fee for the services, the firm selected will be required to enter into a contract agreement with Authority to provide the envisaged services described in the Scope of work. The Authority will notify the successful Applicant in writing by registered letter, cable, telex, e-mail or facsimile.

TECHNICAL PROPOSAL- STANDARD FORMS

FORM TECH 1: LETTER OF PROPOSAL SUBMISSION

[Location, Date]

Shri _____

Patna-_____

Tele. _____

Subject: Selection of Transaction Advisor for leasing out of Hotel Patliputra Ashok, Patna, Bihar”.

Dear Sir,

We, the undersigned, offer to provide the consulting Assignment/job for Transaction Advisor in accordance with your Request for Proposal dated..... . We are hereby submitting our Proposal, which includes this Technical Proposal, and a Financial Proposal sealed under a separate envelope. We hereby declare that all the information and statements made in this Proposal are true and accept that any misinterpretation contained in it may lead to our disqualification.

Our Proposal is binding upon us and subject to the modifications resulting from Contract negotiations.

We understand you are not bound to accept any Proposal you receive. We remain,

Yours sincerely,

Authorized Signatory [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

FORM TECH 2: TRANSACTION ADVISER’S ORGANIZATION AND EXPERIENCE

A - Transaction Adviser’s Organization

- i. Leasing / buying of property experience of “The Applicant” : Summary credentials specifying infrastructure projects (project titles and /or project overview) successfully awarded (India and overseas);
- ii. Transaction advisory experience in India: Summary credentials specifying the number of projects (project titles and /or project overview) where advised a government agency or entity in India;

[Provide here a brief description of the background and organization of your firm/entity and each associate for this Assignment/job. The brief description should include ownership details, date and place of incorporation of the firm, objectives of the firm etc.

B – The Applicant’s Experience

[Using the format below, provide information on each Assignment/job for which your firm, was legally contracted either individually as a corporate entity or as one of the major partners within an association, for carrying out consulting Assignment/job similar to the ones requested under this Assignment/job (If possible, the Bidder shall specify exact assignment / job for which experience details may be submitted).

Firm Name:

1	Assignment/job name:
1.1	Description of Project
1.2	Approx. value of the contract (in Rupees):
1.3	Country:
1.4	Location within country:
1.5	Duration of Assignment/job (months) :
1.6	Name of department:
1.7	Address:
1.8	Total No of staff-months of the Assignment/job:
1.9	Approx. value of the Assignment/job provided by your firm under the contract (in Rupees):
1.10	Start date (month/year):
1.11	Completion date (month/year):
1.12	Name of associated Consultant, if any:
1.13	No. of professional staff-months provided by associated Consultants:
1.14	Name of senior professional staff of your firm involved and functions performed.
1.15	Description of actual Assignment/job provided by your staff within the Assignment/job:

Note: Please provide documentary evidence from the client i.e., copy of work order / Letter of award and completion Certificate / Certificate from CA for receiving all payments on completion of the projects. The experience shall not be considered for evaluation if such requisite support documents are not provided with the proposal.

FORM TECH 3: Comments and suggestions on the terms of reference and on counterpart staff and facilities to be provided by the TA.

A - On the Terms of Reference

[Suggest and justify here any modifications or improvement to the Terms of Reference you are proposing to improve performance in carrying out the Assignment/job. Such suggestions should be concise and to the point, and incorporated in your Proposal. The Authority is not bound to accept the comments/modifications suggested]

B - On Inputs and Facilities to be provided by the Authority.

[Comment here on Inputs and facilities to be provided by the Authority to Consultants]

FORM TECH 4: DESCRIPTION OF APPROACH, METHODOLOGY AND WORK PLAN FOR PERFORMING THE ASSIGNMENT/JOB

Technical approach, methodology and work plan are key components of the Technical Proposal.

You are suggested to present your Technical Proposal divided into the following three chapters:

- a) Technical Approach and Methodology,
- b) Work Plan, and
- c) Organization and Staffing,

- a) **Technical Approach and Methodology (max 3 pages)**- In this chapter you should explain your understanding of the objectives of the Assignment/job, approach to the Assignment/job, methodology for carrying out the activities and obtaining the expected output, and the degree of detail of such output. You should highlight the problems being addressed and their importance, and explain the technical approach you would adopt to address them. You should also explain the methodologies you propose to adopt and highlight the compatibility of those methodologies with the proposed approach.
- b) **Work Plan (max 3 pages)**- The Transaction Adviser should propose and justify the main activities of the Assignment/job, their content and duration, phasing and interrelations, milestones (including interim approvals by the Authority), and delivery dates of the reports. The proposed work plan should be consistent with the technical approach and methodology, showing understanding of the TOR and ability to translate them into a feasible working plan. A list of the final documents, including reports, drawings, and tables to be delivered as final output, should be included here.
- c) **Organization and Staffing**- The Transaction Adviser should propose and justify the structure and composition of your team. You should list the main disciplines of the Assignment/job, the key expert responsible, and proposed technical and support staff.]

FORM TECH 5: TEAM COMPOSITION AND TASK ASSIGNMENT/JOBS

Name	Area of Expertise	Position Assigned	Task Assigned	Employment Status (full-time/ other)	Education/ Degree (Year / Institution)	No. of years of relevant project experience	CV signature by (expert/ other)

FORM TECH 6: CURRICULUM VITAE (CV) FOR PROPOSED PROFESSIONAL STAFF

(Max 3 pages per CV)

1. Proposed Position:

[For each position of key professional separate form Tech-6 will be prepared]:

2. Name of Firm:

[Insert name of firm proposing the staff]:

3. Name of Staff: [Insert full
name]:

4. Date of Birth:

5. Nationality:

6. Education:

[Indicate college/university and other specialized education of staff member, giving names of institutions, degrees obtained, and dates of obtainment]:

7. Membership of Professional Associations:

8. Other Training:

9. Countries of Work Experience:

[List countries where staff has worked in the last ten years]:

10. Languages [For each language indicate proficiency: good, fair, or poor in speaking, reading, and writing]:

11. Employment Record:

[Starting with present position, list in reverse order every employment held by staff member since graduation, giving for each employment (see format here below): dates of employment, name of employing organization, positions held.]:

From [Year]: To [Year]:

Positions held:

12. Detailed Tasks Assigned

[List all tasks to be performed under this Assignment/job]

13. Work Undertaken that Best Illustrates Capability to Handle the Tasks Assigned [Among the Assignment/jobs in which the staff has been involved, indicate the following information for those Assignment/jobs that best illustrate staff capability to handle the tasks listed under point 12.]

Name of Assignment/job or project:

Year:

Location:

Main project features:

Positions held:

Activities performed:

14. Certification:

I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications, and my experience. I understand that any willful misstatement described herein may lead to my disqualification or dismissal, if engaged.

Date:

Place:

[Signature of staff member or authorized representative of the staff]

[Full name of authorized representative]:

FORM TECH 7: INFORMATION REGARDING ANY CONFLICTING ACTIVITIES AND DECLARATION THEREOF

We hereby declare that our firm, our associate / group firm are not indulged in any such activities which can be termed as the conflicting activities as detailed in para 3.2 of the terms and conditions of the contract.

We also declare that there has not been any conviction by a Court of Law or indictment/adverse order by a regulatory authority for a grave offence against our firm, our associate / group firm as mentioned in para 3.10 of the terms and conditions of the contract.

We also acknowledge that in case of misrepresentation of the information, our proposals / contract shall be rejected / terminated by the Authority which shall be binding on us. The determination of what construes conflicting activities, if any, shall be the prerogative of the Authority.

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

ANNEXURE 2

Power of Attorney

Know all men by these presents, We, (name of Firm and

address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms..... son/daughter/wife and presently residing at, who is presently employed with/ retained by us and holding the position of as our true and lawful attorney (hereinafter referred to as the ("Authorised Representative") 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 and selection as Applicant including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts 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 till the entering into of the Agreement with the Authority.

AND, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorised Representative 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 Authorised Representative in exercise of the powers hereby conferred shall and shall always be deemed to have been done by us.

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

OF, 20**

For

(Signature, name, designation and address)

Witnesses:

- 1.

- 2.

FINANCIAL PROPOSAL - STANDARD FORMS

FORM FIN 1: FINANCIAL PROPOSAL SUBMISSION FORM

[Location, Date]

Shri _____

Patna-_____

Subject: Selection of Transaction Advisor for leasing out of Hotel Patliputra Ashok, Patna in the State of Bihar”.

Dear Sir,

We, the undersigned, offer to provide the consulting Assignment/job for Transaction Advisor in accordance with your Request for Proposal dated [Insert Date] and our Technical Proposal. Our attached Financial Proposal is for the sum of Rs.....(Rupees..... in words). This amount is inclusive of the Service Tax. We hereby confirm that the financial proposal is unconditional and we acknowledge that any condition attached to financial proposal shall result in rejection of our financial proposal.

Our Financial Proposal shall be binding upon us subject to the modifications resulting from Contract negotiations, up to expiration of the validity period of the Proposal.

We remain,

Yours sincerely,

Authorized Signature [In full and initials]:

Name and Title of Signatory:

Name of Firm:

Address:

FORM FIN 2: FORMAT FOR FINANCIAL PROPOSAL

S No.	Project / Name	Total fee
		Flat Rate A
1.	Transaction Advisory Services for Long term Leasing of Hotel Patliputra Ashok in the state of Bihar (including all expenses such as legal fee etc. to be incurred by the Transaction Advisor to complete the assignment and all applicable Taxes, cess duties etc.)	[Indicate total fee in words and figures]

Authorized Signature:.....

Name:

Designation

Name of firm:.....

Address:.....

Please Note:

1. Fee structure and payment terms shall remain strictly as indicated above. Conditional proposal shall be summarily rejected.
2. The above quoted fee shall include all expenses such as legal fees etc. to be incurred by the Applicant to complete the assignment. Nothing shall be paid extra towards such expenses in any case.
3. The bids shall be evaluated on QCBS.
4. Applicant shall submit the financial proposal in the format at Form FIN 2 (Format for Financial Proposal) clearly indicating the total cost of the Consultancy including all taxes, cess, duties etc. in both figures and words, in Indian Rupees, and signed by the **Applicant's Authorised Representative. In the event of any difference between figures and words, the amount indicated in words shall prevail. In the event of a difference between the arithmetic total and the total shown in the Financial Proposal, the lower of the two shall prevail.**
5. In case Authority decides to abandon the project for any reason, the payment of the Applicant shall be restricted up to the Stage the services have actually been provided by the Applicant.
6. Terms of Payment will be as indicated in the RFP document.

Appendix 2

Pre-qualification check list

Sr. No.	Description	Yes	No.
1.	Whether the proposal has been submitted in separate three envelopes as mentioned in RFP.		
2.	Whether Bid security has been submitted as proposed		
3.	Whether Applicant has enclosed the CV of following key personnel i.e. a. Team Leader b. Finance Expert c. Contract/Legal Expert d. Human Resource Expert e. Valuation expert		
4.	Whether Applicant has submitted necessary documents / proof for Technical Capacity as per RFP.		
5.	Whether Applicant has submitted necessary documents / proof of having received professional fee during each three preceding years as mentioned in RFP.		
6.	Whether power of attorney as per format has been attached		
7.	Whether Applicant has been barred by Central Govt., any State Govt., a statutory Authority or public sector undertaking for participating in any project as per RFP		
8.	Whether Applicant during last three years has failed to perform any agreement as evidenced by imposition of a penalty by a arbitral or judicial authority as per RFP.		
9.	Whether Applicant has any conflict of interest as mentioned in RFP		
10.	Whether Applicant has been convicted by a Court of law or indictment / adverse order by a Regularity Authority as mentioned in RFP		

11.	Whether Applicant has submitted Technical Proposal and Financial Proposal in respective standard format as per RFP		
12.	Whether affidavit as mentioned in Special Condition of Contract (B) has been enclosed with Technical Bid		
13.	Whether Applicant has submitted any alternative proposal or conditional proposal		
14.	Whether the Applicant has been involved in any fraud and corrupt practices		

Above check list is only indicative and all Applicants must ensure that they have enclosed all the necessary documents etc, as mentioned in RFP Document.

Form of Contract
Contents

I.	Contract	
II.	General Conditions of Contract	
1.	General Provisions	
2.	Commencement, Completion, Modification and Termination of Contract	
3.	Obligations of the Transaction Advisor	
4.	Transaction Advisor Personnel	
5.	Obligations of the Authority	
6.	Payments to the Transaction Advisor	
7.	Fairness and Good Faith	
8.	Settlement of Disputes	
9.	Liquidated Damages	
10.	Performance Security	
11.	Miscellaneous Provisions	
III	Special Conditions of Contract	
Annx.1	Bank Guarantee for Performance Security	

CONTRACT FOR TRANSACTION ADVISOR SERVICES

Between

Bihar State Tourism Development Corporation Limited

&

M/s. _____ [Name of the Transaction Advisor]

Dated:.....

I. Contract

i) This CONTRACT (hereinafter called the "Contract") is made on the [day] day of the month of [month], [year], between the Bihar State Tourism Development Corporation Ltd acting through and represented by (hereinafter called the "Authority") of the First Part and, [name of Transaction Advisor] (hereinafter called the "Transaction Advisor") of the Second Part. The power of attorney, relevant minutes, resolution in favour of the person(s), who will be executing the Agreement on behalf of the concerned party is attached.

WHEREAS

- (a) the Transaction Advisor, having represented to the "Authority" that he has the required professional skills, personnel and technical resources, has offered to provide in response to the Notice inviting proposal dated _____ issued by the Authority;
- (b) the "Authority" has accepted the offer of the Transaction Advisor to provide the services on the terms and conditions set forth in this Contract.

NOW, THEREFORE, IT IS HEREBY AGREED between the parties as follows:

- 1. The following documents attached hereto shall be deemed to form an integral part of this Contract:
 - (a) The General Conditions of Contract;
 - (b) The Special Conditions of Contract;
 - (c) Contents, Terms & Conditions of RFP
- 2. The mutual rights and obligations of the "Authority" and the Transaction Advisor shall be as set forth in the Contract, in particular:
 - (a) the Transaction Advisor shall carry out and complete the Services in accordance with the provisions of the Contract; and
 - (b) the "Authority" shall make payments to the Transaction Advisor in accordance with the provisions of the Contract.

IN WITNESS WHEREOF, the Parties hereto have caused this Contract to be signed in their respective names as of the day and year first above written. Signed by -----

For and on behalf of the BSTDC

1. _____.

2. [name of Transaction Advisor]

[Authorized Representative]

[Authorized Representative]

[Designation with full address]

In presence of (Witnesses)

i) (i)

(ii) (ii)

II. General Conditions of Contract

1. GENERAL PROVISIONS

1.1 Definitions: Unless the context otherwise requires, the following terms whenever used in this Contract have the following meanings:

- a. "Applicable Law" means and includes any law, rule, regulation, ordinance, order, treaty, judgment, notification, decree, bye-law, governmental approval, directive, guideline, requirement or other governmental restriction, or any similar form of decision of, or determination by, or any interpretation, policy or administration, having the force of law and shall include any of the foregoing, injunction, permit or decision of any central, state or local, municipal government, authority, agency, court having jurisdiction over the matter in question, whether in effect as on the date of this Agreement or thereafter, in any jurisdiction.
- b. "Authority" means and includes BSTDC or any other person authorised by BSTDC.
- c. "Transaction Advisor" means any private or public entity that will provide the Services to the "Authority" under the Contract.
- d. "Contract" means the Contract signed by the Parties and all the attached documents listed in its Clause 1 that is this General Conditions (GC), the Special Conditions (SC), and the Appendices.
- e. "Day" means calendar day.
- f. "Effective Date" means the date on which this Contract comes into force and effect pursuant to Clause GC 2.1.
- g. "Foreign Currency" means any currency other than the currency of the "Authority's" country.
- h. "GC" means these General Conditions of Contract.
- i. "GOB" means the Government of Bihar
- j. "Local Currency" means Indian Rupees.
- k. "Parties/Party" shall mean the entities mentioned in the array of parties either individually or collectively, as the context may require. Unless and otherwise categorically mentioned, parties shall define both the parts
- l. "Personnel" means professionals and support staff provided by the Transaction Advisor and assigned to perform the Services or any part thereof; "Foreign Personnel" means such professionals and support staff who at the time of being so provided had their domicile outside the India; "Local Personnel" means such professionals and support staff who at the time of being so provided had their domicile of India; and "Key Personnel" means the Personnel referred to in Clause GC 4.2(a).
- m. "Fees" means all assignment-related costs [such as remuneration, travel, translation, report printing, secretarial expenses, and taxes subject to specified maximum limits in the Contract].
- n. "SC" means the Special Conditions of Contract by which the GC may be amended or supplemented.
- o. "Services" means the work to be performed by the Transaction Advisor pursuant to this Contract, as described in RFP hereto.
- p. "Third Party" means any person or entity other than the "Authority", or the Transaction Advisor.
- q. "In writing" means communicated in written form with proof of receipt.

1.2 **Relationship between the Parties**

Nothing contained herein shall be construed as establishing a relationship of master and servant or of principal and agent as between the "Authority" and the "**Transaction Advisor**"

The Transaction Advisor, subject to this Contract, has complete charge of Personnel, if any, performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 **Law Governing Contract:** This Contract, its meaning and interpretation, and the relation between the Parties shall be governed by the applicable laws of India.

1.4 **Headings:** The headings shall not limit, alter or affect the meaning of this Contract.

1.5 **Notices**

1.5.1 Any notice, request or consent required or permitted to be given or made pursuant to this Contract shall be in writing. Any such notice, request or consent shall be deemed to have been given or made when delivered in person to an authorized representative of the Party to whom the communication is addressed, or when sent by registered post/Speed post to such Party at the address-----.

1.5.2 A Party may change its address for notice hereunder by giving the other Party notice in writing of such change to the address specified in the SC.

1.6 **Location:** The Services shall be performed at such locations as are specified in RFP hereto and where the location of a particular task is not so specified, at such locations, as the "Authority" may approve.

1.7 **Authorized Representatives:** Any action required or permitted to be taken, and any document required or permitted to be executed under this Contract by the "Authority" or the Transaction Advisor may be taken or executed by the officials specified as under;

Managing Director, BSTDC, Patna 800001

1.8 **Taxes and Duties:** The Transaction Advisor, Sub- Transaction Advisor and Personnel shall be liable to pay such direct and indirect taxes, duties, fees and other impositions levied under the applicable laws of India. Tax deductions, where ever applicable, shall be undertaken by the Authority as per extant laws.

1.9 **Fraud and Corruption**

1.9.1 **Definitions:** It is the Authority's policy to require that Authority as well as Transaction Advisor observe the highest standard of ethics during the execution of the Contract. In pursuance of this policy, the Authority defines, for the purpose of this provision, the terms set forth below as follows:

(i) "**Corrupt practice**" means the offering, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of a public official in the selection process or in contract execution;

(ii) "**Fraudulent practice**" means a misrepresentation or omission of facts in order to influence a selection process or the execution of a contract;

- (iii) **"Collusive practices"** means a scheme or arrangement between two or more Transaction Advisor, with or without the knowledge of the Authority, designed to establish prices at artificial, noncompetitive levels;
- (iv) **"Coercive practices"** means harming or threatening to harm, directly or indirectly, persons or their property to influence their participation in a procurement process, or affect the execution of a contract;

1.9.2 Measures to be taken by the BSTDC, Patna

- a) The Authority may terminate the contract if it determines at any time that representatives of the Transaction Advisor were engaged in corrupt, fraudulent, collusive or coercive practices during the selection process or the execution of that contract, without the Transaction Advisor having taken timely and appropriate action satisfactory to the Authority to remedy the situation;
- b) After issue of show cause notice, the Authority may also sanction against the Transaction Advisor, including declaring the Transaction Advisor ineligible, either indefinitely or for a stated period of time, to be awarded a contract if it at any time determines that the Transaction Advisor has, directly or through an agent, engaged in corrupt, fraudulent, collusive or coercive practices in competing for, or in executing, a Authority -financed contract;

2. COMMENCEMENT, COMPLETION, MODIFICATION AND TERMINATION OF CONTRACT

2.1 Effectiveness of Contract: This Contract shall come into force and effect on the date (the "Effective Date") of the Authority 's notice to the Transaction Advisor instructing the Transaction Advisor to begin carrying out the Services. This notice shall confirm that the conditions precedent and effectiveness conditions, if any, listed in the SC have been met.

2.2 Termination of Contract for Failure to Become Effective: If this Contract has not become effective within such time period after the date of the Contract signed by the Parties as specified in the SC, either Party may, by not less than twenty one (21) days written notice to the other Party, declare this Contract to be null and void, and in the event of such a declaration by either Party, neither Party shall have any claim against the other Party with respect hereto.

2.3 Commencement of Services: The Transaction Advisor shall begin carrying out the Services not later than the number of days after the Effective Date specified in the SC.

2.4 Expiration of Contract: Unless terminated earlier pursuant to Clause GC 2.9 hereof, this Contract shall expire at the end of such time period after the Effective Date as specified in the SC.

2.5 Entire Agreement: This Contract contains all covenants, stipulations and provisions agreed by the Parties. No agent or representative of either Party has authority to make, and the Parties shall not be bound by or be liable for, any other statement, representation, promise or agreement not set forth herein.

2.6 Modifications or Variations: (a) Any modification or variation of the terms and conditions of this Contract, including any modification or variation of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clause GC 7.2 here of, however, each Party shall give due consideration to any proposals for modification or variation made by the other Party.

(b) In cases of substantial modifications or variations, the prior written consent of the Authority is required.

2.7 Force Majeure

2.7.1 Definition

- (a) For the purposes of this Contract, "Force Majeure" means an event which is beyond the reasonable control of a Party, is not foreseeable, is unavoidable and not brought about by or at the instance of the Party claiming to be affected by such events and which has caused the non-performance or delay in performance, and which makes a Party's performance of its obligations hereunder impossible or so impractical as reasonably to be considered impossible in the circumstances, and includes, but is not limited to, war, riots, civil disorder, earthquake, fire, explosion, storm, flood or other extreme adverse weather conditions, strikes, lockouts or other industrial action (except where such strikes, lockouts or other industrial action are within the power of the Party invoking Force Majeure to prevent), confiscation or any other action by Government agencies.
- (b) Force Majeure shall not include (i) any event which is caused by the negligence or intentional action of a Party or by or of such Party's Sub- Transaction Advisor or agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected both to take into account at the time of the conclusion of this Contract, and avoid or overcome in the carrying out of its obligations hereunder.
- (c) Subject to clause 2.7.2, Force Majeure shall not include insufficiency of funds or manpower or inability to make any payment required for execution of services under this contract.

2.7.2 No Breach of Contract: The failure of a Party to fulfil any of its obligations hereunder shall not be considered to be a breach of, or default under, this Contract insofar as such inability arises from an event of Force Majeure, provided that the Party affected by such an event has taken all reasonable precautions, due care and reasonable alternative measures, all with the objective of carrying out the terms and conditions of this Contract.

2.7.3 Measures to be taken:

- (d) A Party affected by an event of Force Majeure shall continue to perform its obligations under the Contract as far as is reasonably practical, and shall take all reasonable measures to minimize the consequences of any event of Force Majeure.
- (e) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any case not later than fourteen (14) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give written notice of the restoration of normal conditions as soon as possible.
 - (c) Any period within which a Party shall, pursuant to this Contract, complete any action or task, shall be extended for a period equal to the time during which such Party was unable to perform such action as a result of Force Majeure.
 - (d) During the period of their inability to perform the Services as a result of an event of Force Majeure, the Transaction Advisor, upon instructions by the "Authority", shall either:
 - (i) Demobilize; or
 - (ii) Continue with the Services to the extent possible, in which case the Transaction Advisor shall continue to be paid proportionately and on pro-rata basis, under the terms of this Contract.

- (e) In the case of disagreement between the Parties as to the existence or extent of Force Majeure, the matter shall be settled according to Clause GC 8.

2.8 **Suspension:** The "Authority" may, by written notice of suspension to the Transaction Advisor, suspend all payments to the Transaction Advisor hereunder if the Transaction Advisor fails to perform any of its obligations under this Contract, including the carrying out of the Services, provided that such notice of suspension (i) shall specify the nature of the failure, and (ii) shall allow the Transaction Advisor to remedy such failure, if capable of being remedied, within a period not exceeding thirty

(30) days after receipt by the Transaction Advisor of such notice of suspension.

2.9 Termination

2.9.1 **By the "Authority":** The "Authority" may terminate this Contract in case of the occurrence of any of the events specified in paragraphs (a) through (i) of this Clause GC 2.9.1.

- (a) If the Transaction Advisor fails to remedy a failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause

GC 2.8 hereinabove, within thirty (30) days of receipt of such notice of suspension or within such further period as the "Authority" may have subsequently approved in writing.

- (b) If the Transaction Advisor becomes (or, if the Transaction Advisor consists of more than one entity, if any of its Members becomes and which has substantial bearing on providing Services under this contract) insolvent or go into liquidation or receivership whether compulsory or voluntary.
- (c) If the Transaction Advisor fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause GC 8 hereof.
- (d) If the Transaction Advisor, in the judgment of the "Authority", has engaged in corrupt or fraudulent practices in competing for or in executing this Contract.
- (e) If the Transaction Advisor submits to the "Authority" a false statement which has a material effect on the rights, obligations or interests of the "Authority".
- (f) If the Transaction Advisor places itself in position of conflict of interest or fails to disclose promptly any conflict of interest to the Authority.
- (g) If the Transaction Advisor fails to provide the quality services as envisaged under this Contract. The Committee formulated to monitor the progress of the assignment may make judgment regarding the poor quality of services, the reasons for which shall be recorded in writing. The Committee may decide to give one chance to the Transaction Advisor to improve the quality of the services.
- (h) If, as the result of Force Majeure, the Transaction Advisor is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (i) If the "Authority", in its sole discretion and for any reason whatsoever, decides to terminate this Contract.

2.9.2 In such an occurrence the "Authority" shall give a notice in less than thirty (30) days of written notice of termination to the Transaction Advisor, and **sixty (60) days'** in case of the event referred to in 2.9.1(i).

2.9.3 By the Transaction Advisor: The Transaction Advisor may terminate this Contract, by not less than thirty (30) days' written notice to the "Authority", in case of the occurrence of any of the events specified in paragraphs (a) through (d) of this Clause GC 2.9.3.

- (a) If the "Authority" fails to pay any money due to the Transaction Advisor pursuant to this Contract and not subject to dispute pursuant to Clause GC 8 hereof within forty-five (45) days after receiving written notice from the Transaction Advisor that such payment is overdue.
- (b) If, as the result of Force Majeure, the Transaction Advisor is unable to perform a material portion of the Services for a period of not less than sixty (60) days.
- (c) If the "Authority" fails to comply with any final decision reached as a result of arbitration pursuant to Clause GC 8 hereof.
- (d) If the "Authority" is in material breach of its obligations pursuant to this Contract and has not remedied the same within forty-five (45) days (or such longer period as the Transaction Advisor may have subsequently approved in writing) following the receipt by the "Authority" of the Transaction Advisor's notice specifying such breach.

2.9.4 Cessation of Rights and Obligations: Upon termination of this Contract pursuant to Clauses GC 2.2 or GC 2.9 hereof, or upon expiration of this Contract pursuant to Clause GC 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, (ii) the obligation of confidentiality set forth in Clause GC 3.3 hereof, (iii) the Transaction Advisor's obligation to permit inspection, copying and auditing of their accounts and records set forth in Clause GC 3.6 hereof, and (iv) any right which a Party may have under the Law.

2.9.5 Cessation of Services: Upon termination of this Contract by notice of either Party to the other pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the Transaction Advisor shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Transaction Advisor and equipment and materials furnished by the "Authority", the Transaction Advisor shall proceed as provided, respectively, by Clauses GC 3.9 or GC 3.10 hereof.

2.9.6 Payment upon Termination: Upon termination of this Contract pursuant to Clauses GC 2.9.1 or GC 2.9.2 hereof, the "**Bihar State Tourism Development Corporation Limited (Govt. of Bihar undertaking)**" shall make the following payments to the Transaction Advisor:

- (a) If the Contract is terminated pursuant to Clause 2.9.1 (g), (h) or 2.9.2, remuneration pursuant to Clause GC 6.3(h) (i) hereof for Services satisfactorily performed prior to the effective date of termination, and reimbursable expenditures pursuant to Clause GC 6.3(h)(ii) hereof for expenditures actually and reasonably incurred prior to the effective date of termination;
- (b) If the agreement is terminated pursuant of Clause 2.9.1 (a) to (f), the Transaction

Advisor shall not be entitled to receive any agreed payments upon termination of the contract. However, the "Authority" may consider to make payment for the part satisfactorily performed on the basis of Quantum Meruit as assessed by it, if such part is of economic utility to the Authority. Applicable Under such circumstances, upon termination, the Authority may also impose liquidated damages as per the provisions of Clause 9 of this agreement. The Transaction Advisor will be required to pay any such liquidated damages to Authority within 30 days of termination date.

2.9.7 Disputes about Events of Termination: If either Party disputes whether an event specified in paragraphs (a) through (g) of Clause GC 2.9.1 or in Clause GC 2.9.2 hereof has occurred, such Party may, within forty-five (45) days after receipt of notice of termination from the other Party, refer the matter to Clause GC 8

hereof, and this Contract shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE TRANSACTION ADVISOR

3.1 General

3.1.1 Standard of Performance: The Transaction Advisor shall perform the Services and carry out their obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional standards and practices, and shall observe sound management practices, and employ appropriate technology and safe and effective equipment, machinery, materials and methods. The Transaction Advisor shall always act, in respect of any matter relating to this Contract or to the Services, as faithful adviser to the "Authority", and shall at all times support and safeguard the Authority 's legitimate interests in any dealings with Sub- Transaction Advisor or Third Parties.

3.2 Conflict of Interests:

The Applicant shall not have a conflict of interest (the "Conflict of Interest") that affects the Bidding Process. Any Applicant found to have a Conflict of Interest shall be disqualified. The interested parties may note that -

- a) They would be required to submit a list of or disclose any mandated transactions which are in the same line of business as that of the company (being disinvested) in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser and confirm in writing that there exists no conflict of interest as on the date of submitting their proposal for appointment/ their appointment as Advisers in handling of the transaction and that, in future, if such a conflict of interest arises, the Adviser would immediately intimate the Government/Company (being disinvested) of the same. The Government/Company (being disinvested) shall at its sole discretion after providing due and reasonable opportunity decide whether such future conflict of interest shall materially adversely affect the interest of the Government and the Company (being disinvested) in relation to the transaction and shall be entitled to grant the consent to the Adviser to continue as Adviser or terminate the appointment of the Adviser. For disinvestment purposes, conflict of interest is defined to include engaging in any activity or business by the Adviser in association with any third Party, during the engagement, which would or may be reasonably expected to, directly or indirectly, materially adversely affect the interest of Government of Bihar and/ or the Company (being disinvested) in relation to the transaction, and in respect of which the Adviser has or may obtain any proprietary or confidential information during the engagement, that, if known to any other client of the Adviser, could be used in any manner by such client to the material disadvantage of Government of Bihar and/ or the Company (being disinvested) in the transaction.
- b) The conflict of interest would be deemed to have arisen if any Adviser in respect of the transaction is appointed by a third party for advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser. Further, the decision of the Government/Company (being divested) as to whether such other person or entity is engaged in the same line of business as that of the Company being disinvested, shall be final and binding on the Adviser.

- c) The conflict of interest would also be deemed to have arisen if any Adviser firm/ concern has any professional or commercial relationship with any bidding firm/ concern for the same disinvestment transaction during the pendency of such transaction. In this context, both Adviser firm and bidding firm would mean the distinct and separate legal entities and would not include their sister concern, group concern or affiliates etc. The professional or commercial relationship is defined to include acting on behalf of the bidder or undertaking any assignment for the bidder of any nature, whether or not directly related to disinvestment transaction.
- d) They would also be required to give information and disclose that as on the date of submitting their proposal for appointment/ their appointment as Advisers in respect of the transaction, they are advising or acting on behalf of or associated with any other person or entity (including any company, partnership, proprietary concern or individual or an HUF or association of persons or body of individuals) which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/or the Company (being disinvested) is proposing to select or have appointed the Adviser.

In the event the Adviser fails to disclose that it is advising or acting on behalf of or associated with any other person or entity which is engaged in the same line of business as that of the Company (being disinvested), in respect of any transaction of same nature as the transaction for which the Government and/ or the Company (being disinvested) is proposing to select or have appointed the Adviser, at the time of giving the afore-mentioned undertaking, the Government/Company (being disinvested) shall be entitled to terminate their appointment. Before terminating the appointment, a show cause notice stating why its appointment should not be terminated would be issued giving it an opportunity to explain its position.

3.2.1 Transaction Adviser not to benefit from Commissions, Discounts, etc.:

- (a) The payment of the Transaction Adviser pursuant to Clause GC 6 hereof shall constitute the Transaction Adviser's only payment in connection with this Contract and, subject to Clause GC 3.2.2 hereof, the Transaction Adviser shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Contract or in the discharge of its obligations hereunder, and the Transaction Adviser shall use its best efforts to ensure that any Sub-Transaction Adviser, as well as the Personnel and agents of either of them, similarly shall not receive any such additional payment.
- (b) Furthermore, if the Transaction Adviser, as part of the Services, has the responsibility of advising the "Authority" on the procurement of goods, works or services, the Transaction Adviser shall comply with the Authority's applicable procurement guidelines, and shall at all times exercise such responsibility in the best interest of the "Authority". Any discounts or commissions obtained by the Transaction Adviser in the exercise of such procurement responsibility shall be for the account of the "Authority".

3.2.2 Transaction Adviser and Affiliates Not to Engage in Certain Activities: The Transaction Adviser agrees that, during the term of this Contract and after its termination, the Transaction Adviser and any entity affiliated with the Transaction Adviser, as well as any Sub-Transaction Adviser and any entity affiliated with such Sub-Transaction Adviser, shall be disqualified from providing goods, works or services (other than consulting services) resulting from or directly related to the Transaction Adviser's Services for the preparation or implementation of the project.

3.2.3 Prohibition of Conflicting Activities: The Transaction Adviser shall not engage, and shall cause their Personnel as well as their Sub-Transaction Adviser and their Personnel not to engage, either directly or

indirectly, in any business or professional activities that would conflict with the activities assigned to them under this Contract.

- 3.3 **Confidentiality:** Except with the prior written consent of the "Authority", the Transaction Adviser and the Personnel shall not at any time communicate to any person or entity any confidential information acquired in the course of the Services, nor shall the Transaction Adviser and its Personnel make public the recommendations formulated in the course of, or as a result of, the Services. The Transaction Adviser shall adhere to strict standards of data protection, maintenance of intellectual property rights and protection of confidentiality of the various documents, records and reports relating to the projects.
- 3.4 **Proprietary data:-** All documents and other information collected, analysed, processed, or in whatever manner provided by DOT or submitted by TA to the DOT shall remain or become the property of DOT . TA to treat all information as " Strictly Confidential ."
- 3.5 **Accounting, Inspection and Auditing:** The Transaction Adviser (i) shall keep accurate and systematic accounts and records in respect of the Services hereunder, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time changes and costs, and the bases thereof, and (ii) shall periodically permit the "Authority" or its designated representative and/or the Authority, and up to five years from expiration or termination of this Contract, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the "Authority" or the Authority, if so required by the "Authority" or the Authority as the case may be.
- 3.6 **Transaction Adviser's Actions Requiring Authority's Prior Approval:** The Transaction Adviser shall obtain the Authority's prior approval in writing before taking any of the following actions:
- (a) Any change or addition to the Personnel listed in RFP.
 - (b) **Subcontracts:** the Transaction Adviser may subcontract work relating to the Services to an extent and with such experts and entities as may be approved in advance by the "Authority". Notwithstanding such approval, the Transaction Adviser shall always retain full responsibility for the Services. In the event that any Sub-Transaction Adviser are found by the "Authority" to be incompetent or incapable or undesirable in discharging assigned duties, the "Authority" may request the Transaction Adviser to provide a replacement, with qualifications and experience acceptable to the "Authority", or to resume the performance of the Services itself.
- 3.7 **Reporting Obligations:**
- The Transaction Adviser shall submit to the "Authority" the reports and documents specified in RFP hereto, in the form, in the numbers and within the time periods set forth in the said Appendix. Final reports shall be delivered in CD ROM in addition to the hard copies specified in said Appendix.
- 3.8 **Documents Prepared by the Transaction Adviser to be the Property of the "Authority":** All plans, drawings, specifications, designs, reports, other documents and software prepared by the Transaction Adviser for the "Authority" under this Contract shall become and remain the property of the "Authority", and the Transaction Adviser shall, not later than upon termination or expiration of this Contract, deliver all such documents to the "Authority", together with a detailed inventory thereof. The Transaction Adviser may retain a copy of such documents, but shall not use anywhere, without taking permission, in writing, from the Authority and the Authority reserves right to grant or deny any such request. If license agreements are necessary or appropriate between the Transaction Adviser and third parties for purposes of development of any such computer programs, the Transaction Adviser shall obtain the Authority 's prior written approval to

such agreements, and the "Authority" shall be entitled at its discretion to require recovering the expenses related to the development of the program(s) concerned.

3.9 Equipment, Vehicles and Materials Furnished by the "Authority": Equipment, vehicles and materials made available to the Transaction Adviser by the "Authority", or purchased by the Transaction Adviser wholly or partly with funds provided by the "Authority", shall be the property of the "Authority" and shall be marked accordingly. Upon termination or expiration of this Contract, the Transaction Adviser shall make available to the "Authority" an inventory of such equipment, vehicles and materials and shall dispose of such equipment and materials in accordance with the Authority's instructions. While in possession of such equipment, vehicles and materials, the Transaction Adviser, unless otherwise instructed by the "Authority" in writing, shall insure them at the expense of the "Authority" in an amount equal to their full replacement value.

Equipment and Materials provided by the Transaction Adviser: Equipment or materials brought within the country by the Transaction Adviser and the Personnel and used either for the Project or personal use shall remain the property of the Transaction Adviser or the Personnel concerned, as applicable.

3.10 Conviction by a Court of Law

3.10.1 Any conviction by a Court of Law or indictment/adverse order by a regulatory authority for a grave offence against the Advising concern or its sister concern would constitute a disqualification. In case such a disqualification takes place, after the entity has already been appointed as Adviser, the party would be under an obligation to withdraw voluntarily from the disinvestment process, failing which the Government would have the liberty to terminate the appointment/contract. Disqualification shall continue for a period that Government deems appropriate.

3.10.2 Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.

3.10.3 The disqualification criteria would come into effect immediately and would apply to all the Advisers already appointed by the Government for various disinvestment transactions, which have not yet been completed.

3.10.4 Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.

3.10.5 In case any investigation is pending against the concern or its sister concern or against the CEO or any of its Directors/Managers/Employees, full details of such investigation including the name of the investigating agency, the charge/offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government.

4. Transaction Adviser' Personnel

4.1 **General:** The Transaction Adviser shall employ and provide such qualified and experienced Personnel as are required to carry out the Services.

4.2 Description of Personnel:

(a) The title, agreed job description, minimum qualification and estimated period of engagement in the carrying out of the Services of each of the Transaction Adviser's Key Personnel are as per the Transaction Adviser's proposal and are described in RFP. If any of the Key Personnel has already been approved by the "Authority", his/her name is listed as well.

- (b) If required to comply with the provisions of Clause GC 3.1.1 hereof, adjustments with respect to the estimated periods of engagement of Key Personnel set forth in RFP may be made by the Transaction Adviser by written notice to the "Authority", provided (i) that such adjustments shall not alter the originally estimated period of engagement of any individual by more than 10% or one week, whichever is larger, and (ii) that the aggregate of such adjustments shall not cause payments under this Contract to exceed the ceilings set forth in Clause GC 6.1(b) of this Contract. Any other such adjustments shall only be made with the Authority's written approval.
- (c) If additional work is required beyond the scope of the Services specified in RFP Document, the estimated periods of engagement of Key Personnel set forth in RFP may be increased by agreement in writing between the "Authority" and the Transaction Adviser. In case where payments under this Contract exceed the ceilings set forth in Clause GC 6.1(b) of this Contract, this will be explicitly mentioned in the agreement.

4.3 Approval of Personnel: The Key Personnel and Sub-Transaction Adviser listed by title as well as by name in RFP are hereby approved by the "Authority". In respect of other Personnel which the Transaction Adviser proposes to use in the carrying out of the Services, the Transaction Adviser shall submit to the "Authority" for review and approval a copy of their Curricula Vitae (CVs). If the "Authority" does not object in writing (stating the reasons for the objection) within twenty-one (21) days from the date of receipt of such CVs, such Personnel shall be deemed to have been approved by the "Authority".

4.4 Removal and/or Replacement of Personnel:

- (a) Except as the "Authority" may otherwise agree, no changes shall be made in the Personnel. If, for any reason beyond the reasonable control of the Transaction Adviser, such as retirement, death, medical incapacity, among others, it becomes necessary to replace any of the Personnel, the Transaction Adviser shall forthwith provide as a replacement a person of equivalent or better qualifications.
- (b) If the "Authority" (i) finds that any of the Personnel has committed serious misconduct or has been charged with having committed a criminal action, or (ii) has reasonable cause to be dissatisfied with the performance of any of the Personnel, then the Transaction Adviser shall, at the Authority's written request specifying the grounds therefore, forthwith provide as a replacement a person with qualifications and experience acceptable to the "Authority".
- (c) Any of the Personnel provided as a replacement under Clauses (a) and (b) above, as well as any reimbursable expenditures (including expenditures due to the number of eligible dependents) the Transaction Adviser may wish to claim as a result of such replacement, shall be subject to the prior written approval by the "Authority". The rate of remuneration applicable to a replacement person will be the rate of remuneration paid to the replaced person. Also (i) the Transaction Adviser shall bear all additional travel and other costs arising out of or incidental to any removal and/or replacement, and (ii) the remuneration to be paid for any of the Personnel provided as a replacement shall not exceed the remuneration which would have been payable to the Personnel replaced.

4.5 Resident Project Manager: If required by the SC, the Transaction Adviser shall ensure that at all times during the Transaction Adviser's performance of the Services a resident project manager, acceptable to the "Authority", shall take charge of the performance of such Services.

5. OBLIGATIONS OF THE "AUTHORITY"

5.1 Assistance and Exemptions: Unless otherwise specified in the SC, the "Authority" shall render assistance as may be necessary to enable the Transaction Advisor or Personnel to perform the services:

5.2 Change in the Applicable Law Related to Taxes and Duties: If, after the date of this Contract, there is any change in the Applicable Laws of India with respect to taxes and duties, which are directly payable by the Transaction Adviser for providing the services i.e. service tax or any such applicable tax from time to time, which increases or decreases the cost incurred by the Transaction Adviser in performing the Services, then the

remuneration and reimbursable expenses otherwise payable to the Transaction Adviser under this Contract shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the ceiling amounts specified in Clause GC 6.1(b).

5.3 Services, Facilities and Property of the "Authority":

- (a) The "Authority" shall make available to the Transaction Adviser and its Personnel, for the purposes of the Services and free of any charge, the services, facilities and property described in RFP at the times and in the manner specified in said RFP.
- (b) In case that such services, facilities and property shall not be made available to the Transaction Adviser as and when specified in RFP, the Parties shall agree on any time extension that it may be appropriate to grant to the Transaction Adviser for the performance of the Services.

5.4 Payment: In consideration of the Services performed by the Transaction Adviser under this Contract, the "Authority" shall make to the Transaction Adviser such payments and in such manner as is provided by Clause GC 6 of this Contract.

5.5 Counterpart Personnel:

- (a) If necessary, the "Authority" shall make available to the Transaction Adviser free of charge such professional and support counterpart personnel, to be nominated by the "Authority" with the Transaction Adviser's advice, if specified in RFP.
- (b) Professional and support counterpart personnel, excluding "Authority's" liaison personnel, shall work under the exclusive direction of the Transaction Adviser. If any member of the counterpart personnel fails to perform adequately any work assigned to such member by the Transaction Adviser that is consistent with the position occupied by such member, the Transaction Adviser may request the replacement of such member, and the "Authority" shall not unreasonably refuse to act upon such request.

6. PAYMENTS TO THE TRANSACTION ADVISER

6.1 Total Cost of the Services

- (a) The total cost of the Services payable is set forth in RFP as per the Transaction Adviser's proposal to the Authority and as negotiated thereafter.
- (b) Except as may be otherwise agreed under Clause GC 2.6 and subject to Clause GC 6.1(c), payments under this Contract shall not exceed the amount specified in RFP document.
- (c) Notwithstanding Clause GC 6.1(b) hereof, if pursuant to any of the Clauses GC 4.2 or 5.2 hereof, the Parties shall agree that additional payments shall be made to the Transaction Adviser in order to cover any necessary additional expenditures not envisaged in the cost estimates referred to in Clause GC 6.1(a) above, the ceiling or ceilings, as the case may be, set forth in Clause GC 6.1(b) above shall be increased by the amount or amounts, as the case may be, of any such additional payments shall be made for additional assignment conveyed in writing .

6.2 Currency of Payment: All payments shall be made in Indian Rupees.

6.3 Terms of Payment: The payments in respect of the Services shall be made as follows:

- (a) The Transaction Adviser shall submit the invoice for payment when the payment is due as per the agreed terms. The payment shall be released as per the work related milestones achieved and as per the specified percentage as per RFP document.
- (b) Once a milestone is completed, the Transaction Adviser shall submit the requisite deliverables as specified in this Contract. The Authority shall release the requisite payment upon acceptance of the

deliverables. However, if the Authority fails to intimate acceptance of the deliverables or its objections thereto, within 30 days of receipt of it, the Authority shall release the payment to the Transaction Adviser without further delay.

- (c) **Final Payment** : The final payment as specified in RFP document shall be made only after the final report and a final statement, identified as such, shall have been submitted by the Transaction Adviser and approved as satisfactory by the "Authority". The Services shall be deemed completed and finally accepted by the "Authority" and the final report and final statement shall be deemed approved by the "Authority" as satisfactory ninety (90) calendar days after receipt of the final report and final statement by the "Authority" unless the "Authority", within such ninety (90) day period, gives written notice to the Transaction Adviser specifying in detail deficiencies in the Services, the final report or final statement. The Transaction Adviser shall thereupon promptly make any necessary corrections, and thereafter the foregoing process shall be repeated. Any amount, which the "Authority" has paid or caused to be paid in accordance with this Clause in excess of the amounts actually payable in accordance with the provisions of this Contract, shall be reimbursed by the Transaction Adviser to the "Authority" within thirty (30) days after receipt by the Transaction Adviser of notice thereof. Any such claim by the "Authority" for reimbursement must be made within twelve (12) calendar months after receipt by the "Authority" of a final report and a final statement approved by the "Authority" in accordance with the above.
- (d) For the purpose of payment under Clause 6.3 (b) above, acceptance means; acceptance of the deliverables by the Authority after submission by the Transaction Adviser with/without modifications to be communicated in writing by the Authority to the Transaction Adviser.
- (e) If the deliverables submitted by the Transaction Adviser are not acceptable to the Authority, reasons for such non-acceptance should be recorded in writing; the Authority shall not release the payment due to the Transaction Adviser. This is without prejudicing the Authority's right to levy any liquidated damages under clause 9. In such case, the payment will be released to the Transaction Adviser only after it re-submits the deliverable and which is accepted by the Authority.
- (f) All payments under this Contract shall be made to the accounts of the Transaction Adviser specified in the SC.
- (g) With the exception of the final payment under (c) above, payments do not constitute acceptance of the Services nor relieve the Transaction Adviser of any obligations hereunder, unless the acceptance has been communicated by the Authority to the Transaction Adviser in writing and the Transaction Adviser has made necessary changes as per the comments / suggestions of the Authority communicated to the Transaction Adviser.
- (h) In case of early termination of the contract, the payment shall be made to the Transaction Adviser as mentioned herewith: (i) Assessment should be made about work done from the previous milestone, for which the payment is made or to be made till the date of the termination. The Transaction Adviser shall provide the details of persons reasonably worked during this period with supporting documents. Based on such details, the remuneration shall be calculated based on the man month rate as specified. (ii) A reasonable assessment of the reimbursable and miscellaneous expenses shall be made based on details furnished by the Transaction Adviser in this regard with supporting documents and based on the assessment of the work done and the respective rates as provided. Wherever such an assessment is difficult, the rates should be arrived at by calculating the amount on pro-rata basis. The total amount payable shall be the amount calculated as per (i) and (ii) above plus any applicable tax.

7. FAIRNESS AND GOOD FAITH

- 7.1 **Good Faith:** The Parties undertake to act in good faith with respect to each other's rights under this Contract and to adopt all reasonable measures to ensure the realization of the objectives of this Contract.
- 7.2 **Operation of the Contract:** The Parties recognize that it is impractical in this Contract to provide for every contingency which may arise during the life of the Contract, and the Parties hereby agree that it is their intention that this Contract shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Contract either Party believes that this Contract is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the cause or causes of such unfairness, but no failure to agree on any action pursuant to this Clause shall give rise to a dispute subject to arbitration in accordance with Clause GC 8 hereof.

8. SETTLEMENT OF DISPUTES

8.1 **Amicable Settlement:** Performance of the contract is governed by the terms & conditions of the contract, in case of dispute arises between the parties regarding any matter under the contract, either Party of the contract may send a written Notice of Dispute to the other party. The Party receiving the Notice of Dispute will consider the Notice and respond to it in writing within 30 days after receipt. If that party fails to respond within 30 days, or the dispute cannot be amicably settled within 60 days following the response of that party, clause GC 8.2 shall become applicable.

8.2 **Arbitration:** Any dispute or difference whatsoever arising between the parties with regard to the interpretation, construction, meaning, scope operation or effect of this agreement or the breach thereof shall be referred to the sole arbitrator in terms of The Arbitration and Conciliation Act, 1996.

The Arbitration and Conciliation Act, 1996 and any statutory modification or re-enactment thereof, shall apply to these Arbitration proceedings.

Arbitration proceedings shall be held in India at Patna and the language of the Arbitration proceedings and that of all documents and communications between the Parties shall be English.

The decision of the Sole Arbitrator shall be final and binding upon both Parties. The expenses of the arbitration as determined by the arbitrator(s) shall be shared equally by the Bihar State Tourism Development Corporation Ltd, Government of Bihar undertaking and the Agency. All Arbitration awards shall be in writing and shall state the reasons for the award.

Notwithstanding any references to arbitration, the parties shall continue to perform their respective work / obligation under the Contract.

All incidental expenditures incurred in relation thereto in preparation, presentation of documents related to the dispute in connection shall be independently borne by the respective parties.

8.3 Jurisdiction of Courts for Disputes

This agreement / contract shall be governed and construed in accordance with the laws in force in India. The competent courts in Patna will have the jurisdiction.

9. Liquidated Damages

9.1 The parties hereby agree that due to negligence of act of any party, if the other party suffers losses, damages the quantification of which may be difficult, and hence the amount specified hereunder shall be construed as reasonable estimate of the damages and both the parties agree to pay such liquidated damages, as defined hereunder as per the provisions of this Contract.

9.2 The amount of liquidated damages under this Contract shall not exceed 20% of the total value of the contract as specified in RFP.

9.3 The liquidated damages shall be applicable under following circumstances:

- (a) If the deliverables are not submitted as per schedule as specified in RFP document, the Transaction Adviser shall be liable to pay 1% of the total cost of the services for delay of each week or part thereof.
- (b) If the deliverables are not acceptable to the Authority as mentioned in Clause 6.3(f), and defects are not rectified to the satisfaction of the Authority within 30 days of the receipt of the notice, the Transaction Adviser shall be liable for Liquidated Damages for an amount equal to 1% of total cost of the services for every week or part thereof for the delay.

10. Performance Security

For the purposes of this Agreement, performance security shall be deemed to be an amount equal to 10% (ten per cent) of the Bid/Negotiated value (the "Performance Security"); provided that the Consultant shall not be required to provide Performance Security in the form of a bank guarantee or cash deposit.

Notwithstanding anything to the contrary contained in, as and when payment become due to the Consultant for its Services, the Authority shall retain by way of Performance Security, 10% (ten per cent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause/s. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiry of this Agreement pursuant to Clause hereof. For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security Authority may make deductions from the subsequent payments due and payable to Financial Consultant hereunder, as if it is appropriating the Performance Security in accordance with provisions of this Agreement. The Transaction Advisor, in lieu of retention of the amount as referred to in Clause above furnish a Bank Guarantee substantially in the form specified at Annexure 1 of this Agreement.

Encashment and appropriation of performance Security – The DOT shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in parts, without notice to the TA in the event of breach of this Agreement or for recovery of Liquidated damages as specified.

11. Miscellaneous provisions:

- (i) "Nothing contained in this Contract shall be construed as establishing or creating between the Parties, a relationship of master and servant or principal and agent.

- (ii) Any failure or delay on the part of any Party to exercise right or power under this Contract shall not operate as waiver thereof.
- (iii) The Contractor/Transaction Adviser shall notify the Authority/ the Government of Bihar of any material change in their status, in particular, where such change would impact on performance of obligations under this Contract.
- (iv) Each member /constituent of the Contractor/Transaction Adviser, in case of any subcontract being given, shall be jointly and severally liable to and responsible for all obligations towards the Authority/Government for performance of works/services including that of its Associates under the Contract.
- (v) The Contractor/Transaction Adviser shall at all times indemnify and keep indemnified the Authority/Government of Bihar against all claims/damages etc. for any infringement of any Intellectual Property Rights (IPR) while providing its services under the Project.
- (vi) The Contractor/Transaction Adviser shall at all times indemnify and keep indemnified the Authority/Government of Bihar against any claims in respect of any damages or compensation payable in consequences of any accident or injury sustained or suffered by its (the Contractor's/Transaction Adviser's) employees or agents or by any other third Party resulting from or by any action, omission or operation conducted by or on behalf of the Contractor/Transaction Adviser.
- (vii) The Contractor/ Transaction Adviser shall at all times indemnify and keep indemnified the Authority/Government of Bihar against any and all claims by Employees, Workman, Contractors, sub-contractors, suppliers, agent(s), employed engaged or otherwise working for the Contractor, in respect of wages, salaries, remuneration, compensation or the like.
- (viii) All claims regarding indemnity shall survive the termination or expiry of the Contract.
- (ix) It is acknowledged and agreed by all Parties that there is no representation of any type, implied or otherwise, of any absorption, regularization, continued engagement or concession or preference for employment of persons engaged by the (Contractor/Transaction Adviser) for any engagement, service or employment in any capacity in any office or establishment of the Government of Bihar or the Authority.

Special Conditions of Contract:

(A) Clauses in brackets { } are optional; all notes should be deleted in final text)

SC	Ref. of	Amendments of, and Supplements to, Clauses in the General
Clause	GC	Conditions of Contract
	Clause	
1.	1.5	The addresses are:
		1. "Authority" :

		Attention:
		Facsimile :
		2. Transaction Adviser :
		Attention :
		Facsimile :
2.	1.7	The Authorized Representatives are:

		For the "Authority":
		For the Transaction Adviser:
3.	2.1	Effectiveness of the Contract: From the date of signing of
		the Contract
4.	2.2	The time period shall be _____ months
5.	2.3	The time period shall be _____ days
6.	2.4	The time period shall be _____ months
8.	4.5	{The person designated as resident project manager in RFP
		shall serve in that capacity, as specified in Clause GC 4.5.}
9.	6.1	(b) The ceiling in local currency is: [insert amount and
		currency]
10.	6.3	For lump-sum contracts payment will be made based on
		milestones indicated for each activity as per RFP document.
11.	8.3	The Arbitration proceedings shall take place at Patna in Bihar

Binding signature of _____ Signed by _____

(For and on behalf of the Governor "Bihar State Tourism Development Corporation Limited)

Binding signature of Contractor Signed by _____.

(for and on behalf of _____ duly authorized vide Resolution No _____ dated

_____ of the Board of Directors of _____)

In the presence of

(Witnesses)

1.

2.

(B) AFFIDAVIT TO BE SUBMITTED ALONG WITH TECHNICAL BID

1. Notarised Affidavit on stamp paper of Rs.100.00 (non judicial) stating that

“in case any ambiguity or false or misleading information is noticed in the documents submitted at any stage, we shall be entirely responsible and liable for any action as deemed fit under the law. It is undertaken that if we are disqualified as per the prescribed criteria, at any time before the transaction is completed, we would inform the Authority of the same and voluntarily withdraw from the assignment”.

(Affidavit only for above S.No. 1)

2 Original documents shall be provided if required for cross verification.

3 The International firms shall submit an Undertaking that they shall abide by the rules/laws governing such contracts from the financial, legal and other aspects as applicable on the land and pay taxes, duties and other statutory deductions as applicable. The undertaking shall be submitted with the application form on their letterhead.

4 The firms are advised to inspect and examine the site and its surroundings and satisfy themselves before submitting their RFP as to the nature of the ground and surroundings, the form and nature of the site, the means of access to the site, the accommodation and in general shall themselves obtain all necessary information as to risks, contingencies and other circumstances which may influence or effect their proposal. A firm shall be deemed to have full knowledge of the site, whether he inspects it or not and consequent on any misunderstanding or otherwise shall be allowed.

5 The Authority reserves to themselves the right of accepting the whole or any part of the RFP and firms shall be bound to perform the same.

6. In regard to matters relating to the security and integrity of the country, any charge-sheet by an agency of the Government or conviction by a Court of Law for an offence committed by the company or by any sister concern of the company would result in disqualification. The decision in regard to the relationship between the sisters concerns would be taken by Authority based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/persons.

7. In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment / adverse order by a regulatory authority against the company or against any sister concern which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by Authority.

Annex.1

Bank Guarantee for Performance Security

To

Bihar State Tourism Development Corporation Ltd.

Patna

In consideration of ***** acting on behalf of the **Bihar State Tourism Development Corporation Ltd** hereinafter referred as the "**BSTDC**", which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators and assigns)having awarded to M/s_____, having its office at _____ hereinafter referred as the "Transaction Advisor" which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide he Authority's Agreement No._____ dated _____ valued at ` _____ (Rupees_____), (hereinafter referred to as the "Agreement") a consultancy services for and the Consultant having agreed to furnish a Bank Guarantee amount of ` _____(Rupees_____) to the Authority for performance of the said Agreement.

We, _____(hereinafter referred to as the "Bank") at the request of the Consultant do hereby undertake to pay to the Authority an amount not exceeding_____ (Rupees_____) against any loss or damage caused to or suffered or would be caused to or suffered by the Authority by reason of any breach by the said Consultant of any of the terms or conditions contained in the said _____ Agreement.

2. We, _____ (indicate the name of Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Consultant of any of the terms or conditions contained in the said Agreement or by reason of the Consultant's failure to perform the said Agreement.

Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding _____Rupees_____).

3. We, _____(indicate the name of Bank) undertake to pay the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or proceeding pending before any court or tribunal relating thereto, our liability under this present being absolute and unequivocal. The payment so made by us under this bond shall be a valid discharge of our liability for payment there under and the Consultant shall have no claim against us for making such payment.

4. We, _____ (Indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claim satisfied or discharged to till the Authority certifies that the

terms and conditions of the said Agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee is made on us in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, _____ (indicate the name of Bank) further agree with the Authority that the Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reasons of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Consultant or any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so reliving us.
6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Transaction Advisor.
7. We, _____ (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Authority in writing.
8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs.(Rupees) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before(***(indicate date falling 180 days after the Bid Due Date specified in the RFQ/RFP for the Project)). The Bank Guarantee shall remain in force till settlement of final payments.

Dated, the _____ day of _____ 20 For

(Name of Bank)

(Signature, Name and Designation of the authorized Signatory)

Seal of the Bank:

NOTES:

- (i) The Bank Guarantee should contain (i) the Name, Designation and Code No. of the officer(s) signing the Guarantee.
- (ii) The Address, Telephone NO. and other details of the Head Office of the Bank as well as of issuing Branch should be mentioned on the covering letter of issuing Branch.

Appendix I

Brief on Hotel Patliputra Ashok

1. Area of the land 1 acre (4046 sq m.)
2. Built up area
3. FAR applicable for the area
4. Available FAR
5. Area occupied in the Guest Rooms
6. Area occupied in Offices (HO)
7. Area of banquet hall Ground floor
8. Area of Banquet hall II floor
9. Area of Restaurant