

**GOVERNMENT OF HARYANA
CHANDIGARH**

REQUEST FOR PROPOSAL (RFP)

**APPOINTMENT OF TRANSACTION ADVISOR
FOR**

**[DEVELOPMENT OF MULTI- FUNCTIONAL CONVENTION CENTRE]*
AT [PANCHCULA]
ON PUBLIC PRIVATE PARTNERSHIP BASIS.**

DISTT. [PANCHCULA]

**HARYANA [TOURISM CORPORATION]
CHANDIGARH**

*Note : All the matters/contents within square brackets shall be suitably modified to meet the project specific requirements. This document is based on a project in Tourism Sector and the contents within square brackets have been retained to provide a fair idea of the matter to be given at those places. Square brackets be removed after carrying out the required modifications.

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 [Haryana Tourism Corporation [HTC]] or any of their 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 Request for Proposal (RFP) is an invitation by [HTC], to get Technical Bid and Financial Bid from the Applicants.

This RFP is not an agreement and is neither an offer nor invitation by the [HTC] 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 [HTC] in relation to the Transaction Advisory services. 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 [HTC], 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 complete, accurate, adequate or correct. Reasonable care has been taken in its preparation and all information has been compiled in good faith. 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 is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The [HTC] accepts no responsibility for

the accuracy or otherwise for any interpretation or opinion on the law expressed herein.

The [HTC], 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 anyway in this Selection Process.

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

The issue of this RFP does not imply that the [HTC] is bound to select an Applicant or to appoint the Selected Applicant, as the case may be, for the Transaction Advisory services and the [HTC] reserves 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 fees, expenses associated with any demonstrations or presentations which may be required by the [HTC] or any other costs incurred in connection with or relating to its Proposal. All such costs and expenses will remain with the Applicant and the [HTC] shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Proposal, regardless of the conduct or outcome of the Selection Process.

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1. INTRODUCTION

1.1 Background

1.1.1 [Haryana Tourism Corporation Limited is the government-owned official tourism agency of Haryana in India. It began operation with one resort in 1966, and now owns and operates 44 tourist complexes all over the state. These complexes offer lodging, fast-food, and recreational activities. Haryana Tourism Corporation, also offers adventure tourism and farm tourism. It organizes the Surajkund Crafts Mela (Fair) every year in February. Haryana Tourism also owns two golf courses. The Aravalli Golf Course near Faridabad is an 18-hole course, and the other course, named the Highway Golf Course, is a 9-hole course adjacent to the Karna Lake on National Highway 1.]¹

1.1.2 [Haryana Tourism Corporation [HTC] owns a tourist resort named, Red Bishop in Panchkula. In order to enhance the facilities at this location, [HTC] has acquired land of about 2.5 acre for developing multi - functional Convention Centre with concert halls, lecture halls, conference rooms, auditorium, multi purpose halls for large gatherings, shopping arcade and parking etc. [HTC] intends [developing a master plan for the Centre, create basic infrastructure]² and then invite private sector participation in further development of [facilities, operate, maintain and run the facilities] in an efficient and profitable manner on Public Private Partnership (PPP) basis, in accordance with the Agreement signed between the [HTC] and Private Partner.

1.1.3 [HTC] now proposes to procure the services of Transaction Advisor

¹ Client Department should provide a brief on its responsibilities and functions

² Brief on the Project for which TA services are to be procured

(TA) for proper packaging, structuring and implementation of the procurement of private partner under the Public Private Partnership for the project, in accordance with the Terms of Reference (TOR), given in this Request for Proposal(RFP).

1.2 Request for Proposal

The [HTC] invites Proposals (the “Proposals”) for selection of a Transaction Advisor (the “TA”) who shall provide services of preparing [a Master Plan for the development of multi- functional Convention Centre] feasibility report, bid documents including RfQ, RFP, License / Concession Agreement, necessary advertisement format, facilitating the marketing of the project, bid evaluation and hand-holding till the financial closure of the project, in conformity with the TOR. The TA so appointed shall assist the [HTC] in identifying an appropriate entrepreneur for the best possible [use of the land /facilities at the Convention Centre].

The [HTC] intends to select the TA from [the empanelled list prepared and made available by the Ministry of Finance, Government of India,] and through a competitive bidding process in accordance with the procedure set out herein.

1.3 Due diligence by Applicants

Applicants are encouraged to inform themselves fully about the local conditions, facilities, infrastructure, available land etc at the [Red Bishop, Panchkula,] for its potential for [the development of multi – functional Convention Centre, marketing so as to have best use in a professional manner and earning maximum revenue,] before submitting the Proposal by paying a visit to the [HTC] and the Project site, sending written queries to the [HTC], and attending a Pre-Proposal Conference on the date and time specified in Clause 1.10.

1.4 Sale of RFP Document

RFP document can be obtained from -----, [2011] to -----,[2011] between 1100 hrs and 1600 hrs on all working days [on payment of a fee of Rs. 1,000 (Rupees one thousand only)] in the form of a demand draft or banker’s cheque drawn on any Scheduled Bank in India in favour of [Pay and Account Officer, ----- and payable at Chandigarh]. The document can also be downloaded from the Official Website of the [HTC]. [In case of a downloaded form, the Applicant need not deposit the aforesaid fee.]

1.5 Validity of the Proposal

The Proposal shall be valid for a period of not less than 90 days from the Proposal Due Date (the “PDD”).

1.6 Brief description of the Selection Process

An Evaluation Committee would be constituted by the [HTC] for the evaluation of bids including Technical and Financial proposals received from the bidders. The valuation shall be done in two stages. In the first stage, the Technical Proposal shall be evaluated as specified in Clause 3.1. Based on this technical evaluation, a list of short-listed applicants shall be prepared as specified in Clause 3.2. In the second stage, the Financial Proposal shall be evaluated as specified in Clause 3.3. Proposals will finally be ranked according to their combined technical and financial scores as specified in Clause 3.4. The first ranked Applicant shall be selected for negotiation (the “Selected Applicant”) while the second ranked Applicant will be kept in reserve.

1.7 Currency of payment

All payments to the TA shall be made in Indian Rupees (INR) in accordance with the provisions of this RFP. The TA may convert Rupees into any foreign currency as per Applicable Laws and the exchange risk, if any, shall be borne by the TA.

1.8 Schedule of Selection Process

The [HTC] would endeavour to adhere to the following schedule:

Event Description	Estimated Date
1. Last date for receiving queries/Clarifications	[20 days prior to PDD]
2. Pre-Proposal Conference	[16 days prior to PDD]
3. [HTC] response to queries	[11 days prior to PDD]
4. Proposal Due Date or PDD	[To be specified]
5. Opening of Proposals on PDD	
6. Letter of Award (LOA)	[Within 30 days after PDD]
7. Signing of Agreement	Within 10 days of LOA
8. Validity of Applications	90 days of Proposal Due Date

1.9 Pre-Proposal visit to the Site and inspection of data

Prospective applicants may visit the Site and review the available data at any time prior to PDD. For this purpose, they will provide at least two days' notice to the nodal officer specified below:

Phone

Mobile

Email

1.10 Pre-Proposal Conference

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

Date :

Time :

Venue :

1.11 Communications

1.11.1 All communications including the submission of Proposal should be addressed to:

Phone

Fax

Email

1.11.2 The **Official Website** of the [HTC] is:

[<http://www.haryanatourism.gov.in>]

[Note : Please open page **Notices and Tenders** to access all the posted and uploaded documents related to this RFP]

1.11.3 All communications, including the envelopes, should contain the following information, to be marked at the top in bold letters:

['Development of Convention Centre in Panchkula']

2. INSTRUCTIONS TO APPLICANTS

A. GENERAL

2.1 Scope of Proposal

2.1.1 Detailed description of the objectives, scope of services, deliverables and other requirements relating to this Assignment are specified in this RFP. In case an applicant firm possesses the requisite experience and capabilities required for undertaking the assignment, it may participate in the Selection Process. The term applicant (the “**Applicant**”) means the Sole Firm or the Lead Member, as the case may be. The manner in which the Proposal is required to be submitted, evaluated and accepted is explained in this RFP.

2.1.2 Applicants are advised that the selection of TA shall be on the basis of an evaluation by the [HTC] 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 [HTC] 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 Part-2 of the RFP. The Technical proposal shall be submitted in the form at Appendix-I and the Financial Proposal shall be submitted in the form at Appendix-II. Upon selection, the Applicant shall be required to enter into an agreement with the [HTC] in the form specified at Schedule-2.

2.1.4 Key Personnel

The Assignment Team for this Transaction Advisory services shall consist of the following key personnel (the “**Key Personnel**”) who shall discharge their respective responsibilities as specified below:

Key Personnel ³	Responsibilities
1. Team Leader and PPP Expert	He will lead, co-ordinate and supervise the multidisciplinary team for TA Assignment

³ Key personnel and their responsibilities to be modified as per project specific requirements

2. [Architect Planner] [Development of concept plan, layout, Master Plan]
3. [Event Management Expert] [Assessment of potential of the most preferable and profitable use of the facilities]
4. Financial Expert Financial analysis and modelling of the proposed Project

2.2 Conditions of Eligibility of Applicants

2.2.1 Applicants 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.

2.2.2 To be eligible for evaluation of its Proposal, the Applicant :

(A) [Shall be empanelled in the list of Empanelled Transaction Advisors notified by Ministry of Finance, in August, 2007]

(B) Shall offer and make available all Key Personnel meeting the requirements specified in sub-clause (C) below.

(C) **Conditions of Eligibility for Key Personnel:** Each of the Key Personnel must fulfil the Conditions of Eligibility⁴ specified below:

Key Personnel	Educational Qualification	Professional Experience (in yrs.)	Relevant Experience (in last three yrs.)
Team Leader and PPP Expert	[Masters Degree in Engg. / Arch. and or Management]	[10]	At least two projects on PPP
[Architect Planner]	[Degree in Architecture]	[10]	At least one project on [Theme/Adventure/Amusement Park_Development and O&M of Convention Centre]
[Event Management Expert]	[Degree in Management]	[5]	At least two projects of [event management]

Financial Expert	Post Graduate in Management/Commerce/Chartered Accountant or equivalent	7	At least two projects for financial analysis and modelling
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⁴ The key personnel and their eligibility criteria to be suitably modified to meet project specific requirements

2.3 Conflict of Interest

2.3.1 An Applicant shall not have a conflict of interest that may affect the Selection Process. Any Applicant found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the [HTC] shall forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation and damages payable to the [HTC] for, *inter alia*, the time, cost and effort of the [HTC] including consideration of such Applicant’s Proposal, without prejudice to any other right or remedy that may be available to the [HTC] hereunder or otherwise.

2.3.2 The [HTC] requires that the TA provides professional, objective, and impartial advice and at all times hold the [HTC]’s interests paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The TA shall not accept or engage in any assignment that would be in conflict with its prior or current obligations to other clients, or that may place it in a position of not being able to carry out the assignment in the best interests of the [HTC].

2.3.3 Some guiding principles for identifying and addressing Conflicts of Interest have been illustrated in the Guidance Note at Schedule-3. Without limiting the generality of the above, an Applicant shall be deemed to have a Conflict of Interest affecting the Selection Process, if:

(a) the Applicant, its consortium member (the “**Member**”) or Associate (or any constituent thereof) and any other Applicant, its consortium member or Associate\ (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5 per cent of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be) in the other Applicant, its consortium member or Associate is less than 5% (five per cent) of the subscribed\ and paid up equity share capital thereof; provided

further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 4A of the Companies Act, 1956. For the purposes of this Clause 2.3.3(a), indirect shareholding held through one or more intermediate persons shall be computed as follows:

(aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the “**Subject Person**”) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and

(bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-clause (bb) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or

(b) a constituent of such Applicant is also a constituent of another Applicant; or

(c) such Applicant or its Associate receives or has received any direct or indirect subsidy or grant from any other Applicant or its Associate; or

(d) such Applicant has the same legal representative for purposes of this Application as any other Applicant; or

(e) such Applicant has a relationship with another Applicant, directly or through common third parties, that puts them in a position to have access to each others’ information about, or to influence the Application of either or each of the other Applicant; or

(f) there is a conflict among this and other consulting assignments of the Applicant (including its personnel and Sub-TA) and any subsidiaries or entities controlled by such Applicant or having common controlling shareholders. The duties of the TA will depend on the circumstances of each case. While providing TA services to the [HTC] for this particular assignment, the TA shall not take up any assignment that by its nature will result in conflict with the present assignment; or

(g) a firm which has been engaged by the [HTC] to provide goods or works or services for a project, and its Associates, will be disqualified from providing consulting services for the same project save and except as provided in Clause 2.3.4; conversely, a firm hired to provide consulting services for the preparation or

implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project; or

(h) the Applicant, its Member or Associate (or any constituent thereof), and the bidder or Concessionaire, if any, for the Project, its contractor(s) or sub-contractor(s) (or any constituent thereof) have common controlling shareholders or other cases where the direct or indirect shareholding or ownership interest of an Applicant, its Member or Associate (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Applicant, Member or Associate, as the case may be,) in the bidder or Concessionaire, if any, or its contractor(s) or sub-contractor(s) is less than 5% (five per cent) of the paid up and subscribed share capital of such Concessionaire or its contractor(s) or sub-contractor(s); provided further that this disqualification shall not apply to ownership by a bank, insurance company, pension fund or a Public Financial Institution referred to in section 4A of the Companies Act, 1956. For the purposes of this sub-clause (h), indirect shareholding shall be computed in accordance with the provisions of sub-clause (a) above. For purposes of this RFP, Associate means, in relation to the Applicant, a person who controls, is controlled by, or is under the common control with such Applicant (the “**Associate**”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law or by contract.

2.3.4 An Applicant eventually appointed to provide Assignment for this Project, and its Associates, shall be disqualified from subsequently providing goods or works or services related to the construction and operation of the same Project and any breach of this obligation shall be construed as Conflict of Interest; provided that the restriction herein shall not apply after a period of 5 (five) years from the completion of this assignment or to consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to Assignment/ advisory services performed for the [HTC] in continuation of this Assignment or to any subsequent Assignment/ advisory services performed for the [HTC] in accordance with the rules of the [HTC]. For the avoidance of doubt, an entity affiliated with the TA shall include a partner in the TA’s firm or a person who holds more than 5% (five per cent)

of the subscribed and paid up share capital of the TA, as the case may be, and any Associate thereof.

2.4 Number of Proposals

No Applicant or its Associate shall submit more than one Application for the TA assignment.

An Applicant applying individually or as an Associate shall not be entitled to submit another application either individually or as a member of any consortium, as the case may be.

2.5 Cost of Proposal

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

2.6 Site visit and verification of information

Applicants are encouraged to submit their respective Proposals after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, facilities, infrastructure and other physical features existing at the ground, climate, access to the site, availability of drawings and other data with the [HTC], Applicable Laws and regulations or any other matter considered relevant by them. Visits shall be organised for the benefit of prospective Applicants on dates, time and venue as specified in Clause 1.9.

2.7 Acknowledgement by Applicant

2.7.1 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 [HTC];
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the [HTC] or relating to any of the matters referred to in Clause 2.6 above;

(d) satisfied itself about all matters, things and information, including matters referred to in Clause 2.6 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.

2.7.2 The [HTC] shall not be liable for any omission, mistake or error on the part of the Applicant 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 [HTC].

2.8 Right to reject any or all Proposals

2.8.1 Notwithstanding anything contained in this RFP, the [HTC] 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.

2.8.2 Without prejudice to the generality of Clause 2.8.1, the [HTC] 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 [HTC], the supplemental information sought by the [HTC] for evaluation of the Proposal. Misrepresentation/ improper response by the Applicant may lead to the disqualification of the Applicant. If the Applicant is the Lead Member of a consortium, then the entire consortium may be disqualified / rejected. If such disqualification / rejection occurs after the Proposals have been opened and the highest ranking Applicant gets disqualified / rejected, then the [HTC] 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 [HTC], including annulment of the Selection Process.

B. DOCUMENTS

2.9 Contents of the RFP

2.9.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below and will additionally include any Addendum / Amendment issued in accordance with Clause 2.11:

Request for Proposal

- 1 Introduction
- 2 Instructions to Applicants
- 3 Criteria for Evaluation
- 4 Fraud and corrupt practices
- 5 Pre-Proposal Conference
- 6 Miscellaneous

Schedules

1 Terms of Reference

2 Form of Agreement

- Annex-1 : Terms of Reference
- Annex-2 : Particulars of Key Personnel
- Annex-3 : Cost of Services
- Annex-4 : Payment Schedule
- Annex-5 : Bank Guarantee for Performance Security

3 Guidance Note on Conflict of Interest

Appendices

Appendix-I: Technical Proposal

- Form 1 : Letter of Proposal
- Form 2 : Statement of Legal Capacity
- Form 3 : Power of Attorney
- Form 4 : Particulars of Key Personnel
- Form 5: Proposed Methodology, Work Plan and Presentation
- Form 6 : Eligible Assignments of Applicant
- Form 7: Eligible Assignments of Key Personnel
- Form 8 : CV of Key Personnel

Appendix-II: Financial Proposal

- Form 1 : Covering Letter
- Form 2 : Financial Proposal

2.10 Clarifications

2.10.1 Applicants requiring any clarification on the RFP may send their queries to the [HTC] in writing before the date mentioned in the Schedule of Selection Process at Clause 1.8. The envelopes shall clearly bear the following identification:

“Queries/Request for Additional Information concerning RFP for [Development of Convention Centre at Panchkula] on PPP.

The [HTC] shall endeavour to respond to the queries within the period specified therein but not later than [7 (seven)] days prior to the Proposal Due Date. The responses will be sent by fax or e-mail. The [HTC] 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.

2.10.2 The [HTC] reserves the right not to respond to any questions or provide any clarifications, in its sole discretion, and nothing in this Clause 2.10 shall be construed as obliging the [HTC] to respond to any question or to provide any clarification.

2.11 Amendment of RFP

2.11.1 At any time prior to the deadline for submission of Proposal, the [HTC] 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 fax or e-mail.

2.11.2 All such amendments will be notified in writing through fax or 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.

2.11.3 In order to afford the Applicants a reasonable time for taking an amendment into account, or for any other reason, the [HTC] may, in its sole discretion, extend the Proposal Due Date.

C. PREPARATION AND SUBMISSION OF PROPOSAL

2.12 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 the relevant passages in English, in which case, for all purposes of interpretation of the Proposal, the translation in English shall prevail.

2.13 Format and signing of Proposal

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

2.13.2 The Applicant shall prepare one original set of the Proposal (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFP) and clearly marked “ORIGINAL”. In addition, the Applicant shall submit 2 (two) copies of the Proposal, along with Documents, marked “COPY”. In the event of any discrepancy between the original and its copies, the original shall prevail.

2.13.3 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 initialled. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialled 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; or
- (d) by the authorised representative of the Lead Member, in case of consortium.

A copy of the Power of Attorney certified under the hands of a partner or director of the Applicant and notarised by a notary public in the form specified in Appendix-I (Form- 3) shall accompany the Proposal.

2.13.4 Applicants should note the Proposal Due Date, as specified in Clause 1.8, for submission of Proposals. Except as specifically provided in this RFP, no supplementary material will be entertained by the [HTC], and that evaluation will be carried out only on the basis of Documents received by the closing time of Proposal Due Date as specified in Clause 2.17.1. 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. For the

avoidance of doubt, the [HTC] reserves the right to seek clarifications under and in accordance with the provisions of Clause 2.23.

2.14 Technical Proposal

2.14.1 Applicants shall submit the technical proposal in the formats at Appendix-I (the “**Technical Proposal**”).

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

- (a) The Bid Security is provided;
- (b) All forms are submitted in the prescribed formats and signed by the prescribed signatories;
- (c) Power of Attorney, if applicable, is executed as per Applicable Laws;
- (d) CVs of all Professional Personnel have been included;
- (e) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.2.2 (C) of the RFP;
- (f) no alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- (g) 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;
- (h) the CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP;
- (i) Professional Personnel proposed have good working knowledge of English language;
- (j) Key Personnel would be available for the tasks indicated in the TOR;
- (k) No Key Personnel should have attained the age of [75 (seventy five)] years at the time of submitting the proposal; and
- (l) the proposal is responsive in terms of Clause 2.21.3.

2.14.3 Failure to comply with the requirements spelt out in this Clause 2.14 shall make the Proposal liable to be rejected.

2.14.4 If an individual Key Personnel makes a false statement regarding his qualification, experience or other particulars, or his commitment regarding availability for the Project is not fulfilled at any stage after signing of the Agreement, he shall be liable to be debarred for any future assignment of the [HTC] for a period

of 5 (five) years. The award of this Assignment to the Applicant may also be liable to cancellation in such an event.

2.14.5 The Technical Proposal shall not include any financial information relating to the Financial Proposal.

2.14.6 The proposed team shall be composed of experts and specialists (the “**Professional Personnel**”) in their respective areas of expertise and managerial/support staff (the “**Support Personnel**”) such that the TA should be able to complete the Assignment within the specified time schedule. The Key Personnel specified in Clause 2.1.4 shall be included in the proposed team of Professional Personnel. Other competent and experienced Professional Personnel in the relevant areas of expertise must be added as required for successful completion of this Assignment. The CV of each such Professional Personnel, if any, should also be submitted in the format at Form-8 of Appendix-I.

2.14.7 The [HTC] 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 [HTC] to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the [HTC] there under.

2.14.8 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 TA 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 [HTC] without the [HTC] being liable in any manner whatsoever to the Applicant or TA, as the case may be. In such an event, the [HTC] shall forfeit and appropriate the Bid Security as mutually agreed pre-estimated compensation and damages payable to the [HTC] for, *inter alia*, time, cost and effort of the [HTC], without prejudice to any other right or remedy that may be available to the [HTC].

2.15 Financial Proposal

2.15.1 Applicants shall submit the financial proposal in the formats at Appendix-II (the “**Financial Proposal**”) clearly indicating the total cost of the Assignment in Form-2 of Appendix-II 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.

2.15.2 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, surveys, geo-technical investigations 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 different items of the Financial Proposal. Further, all payments shall be subject to deduction of taxes at source as per Applicable Laws.
- (iii) Costs (including break down of costs) shall be expressed in INR.

2.16 Submission of Proposal

2.16.1 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 the 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 [HTC] 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 [HTC], the latter shall prevail.

2.16.2 The Proposal will be sealed in an outer envelope which will bear the address of the [HTC], RFP Notice number, Assignment name as indicated at Clauses 1.11.1 and 1.11.3 and the name and address of the Applicant. It shall bear on top, the following:

“Do not open, except in presence of the Authorised Person of the [HTC]”

If the envelope is not sealed and marked as instructed above, the [HTC] 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.

2.16.3 The aforesaid outer envelope will contain two separate sealed envelopes, one clearly marked ‘**Technical Proposal**’ and the other clearly marked ‘**Financial Proposal**’. The envelope marked “Technical Proposal” shall contain:

- (i) Application in the prescribed format (Form-1 of Appendix-I) along with Forms 2 to 8 of Appendix-I and supporting documents; and
- (ii) Bid security as specified in Clause 2.20.1 The envelope marked “Financial Proposal” shall contain the financial proposal in the prescribed format (Forms 1 and 2 of Appendix-II).

2.16.4 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 initialled by the person or persons signing the Proposal.

2.16.5 The completed Proposal must be delivered on or before the specified time on Proposal Due Date. Proposals submitted by fax, telex, telegram or e-mail shall not be entertained.

2.16.6 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. No separate documents like printed annual statements, company brochures, copy of contracts etc. will be entertained.

2.16.7 The rates quoted shall be firm throughout the period of performance of the assignment up to and including acceptance of the Feasibility Report by the [HTC] and discharge of all obligations of the TA under the Agreement.

2.17 Proposal Due Date

2.17.1 Proposal should be submitted at or before 1100 hrs on the Proposal Due Date specified at Clause 1.8 at the address provided in Clause 1.11 in the manner and form

as detailed in this RFP. A receipt thereof should be obtained from the person specified therein.

2.17.2 The [HTC] may, in its sole discretion, extend the Proposal Due Date by issuing an Addendum in accordance with Clause 2.11 uniformly for all Applicants.

2.18 Late Proposals

Proposals received by the [HTC] after the specified time on Proposal Due Date shall not be eligible for consideration and shall be summarily rejected.

2.19 Modification/ substitution/ withdrawal of Proposals

2.19.1 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 [HTC] prior to Proposal Due Date. No Proposal shall be modified, substituted, or withdrawn by the Applicant on or after the Proposal Due Date.

2.19.2 The modification, substitution, or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.16, with the envelopes being additionally marked

“MODIFICATION”, “SUBSTITUTION” or “WITHDRAWAL”, as appropriate.

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

2.20 Bid Security

2.20.1 The Applicant shall furnish as part of its Proposal, a bid security of Rs.[50,000 (Rupees Fifty Thousand Only)]⁵, in the form of a Demand Draft issued by one of the Nationalised/ Scheduled Banks in India in favour of the [Managing Director, Haryana Tourism Corporation payable at Chandigarh](the “**Bid Security**”), returnable not later than 30 (thirty) days from PDD [except in case of the two highest ranked Applicants as required in Clause 2.24.1. In the event that the first ranked Applicant commences the assignment as required in Clause 2.29, the second ranked Applicant, who has been kept in reserve, shall be returned its Bid Security forthwith, but in no

⁵ May be fixed at 1% to 2% of expected consultancy cost

case not later than 120 (one hundred and twenty) days from PDD.] The Selected Applicant's Bid Security shall be returned, upon the Applicant signing the Agreement and completing the Deliverables assigned to it for the first 2 (two) months of the Assignment in accordance with the provisions thereof.

2.20.2 Any Bid not accompanied by the Bid Security shall be rejected by the [HTC] as nonresponsive.

2.20.3 The [HTC] shall not be liable to pay any interest on the Bid Security and the same shall be interest free.

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

- (a) If an Applicant submits a non-responsive Proposal;
- (b) If an Applicant engages in any of the Prohibited Practices specified in Section 4 of this RFP;
- (c) If an Applicant withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Applicant from time to time;
- (d) In the case of the Selected Applicant, if the Applicant fails to reconfirm its commitments during negotiations as required vide Clause 2.24.1;
- (e) In the case of a Selected Applicant, if the Applicant fails to sign the Agreement or commence the assignment as specified in Clauses 2.28 and 2.29 respectively; or
- (f) If the Applicant is found to have a Conflict of Interest as specified in Clause 2.3.

D. EVALUATION PROCESS

2.21 Evaluation of Proposals

2.21.1 The [HTC] shall open the Proposals at 1130 hours on the Proposal Due Date, at the place specified in Clause 1.11.1 and in the presence of the Applicants who choose to attend. The envelopes marked "Technical Proposal" shall be opened first. The

envelopes marked “Financial Proposal” shall be kept sealed for opening at a later date.

2.21.2 Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.19 shall not be opened.

2.21.3 Prior to evaluation of Proposals, the [HTC] will determine whether each Proposal is responsive to the requirements of the RFP. The [HTC] may, in its sole discretion, reject any Proposal that is not responsive hereunder. A Proposal shall be considered responsive only if:

- (a) the Technical Proposal is received in the form specified at Appendix-I;
- (b) it is received by the Proposal Due Date including any extension thereof pursuant to Clause 2.17;
- (c) it is accompanied by the Bid Security as specified in Clause 2.20.1.
- (d) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.13 and 2.16;
- (e) it is accompanied by the Power of Attorney as specified in Clause 2.13.3;
- (f) it contains all the information (complete in all respects) as requested in the RFP;
- (g) it does not contain any condition or qualification; and
- (h) it is not non-responsive in terms hereof.

2.21.4 The [HTC] 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 [HTC] in respect of such Proposals.

2.21.5 The [HTC] shall subsequently examine and evaluate Proposals in accordance with the Selection Process specified at Clause 1.6 and the criteria set out in Section 3 of this RFP.

2.21.6 After the technical evaluation, the [HTC] shall prepare a list of pre-qualified and shortlisted Applicants in terms of Clause 3.2 for opening of their Financial Proposals. A date, time and venue will be notified to all Applicants for announcing the result of evaluation and opening of Financial Proposals. Before opening of the Financial Proposals, the list of pre-qualified and shortlisted Applicants along with their Technical Score will be read out. The opening of Financial Proposals shall be done in presence of respective representatives of Applicants who choose to be present. The [HTC] will not entertain any query or clarification from Applicants who fail to qualify at any stage of the Selection Process. The financial evaluation and final ranking of the Proposals shall be carried out in terms of Clauses 3.3 and 3.4.

2.21.7 Applicants are advised that Selection will be entirely at the discretion of the [HTC]. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Selection Process or Selection will be given.

2.21.8 Any information contained in the Proposal shall not in any way be construed as binding on the [HTC], its agents, successors or assigns, but shall be binding against the Applicant if the Assignment is subsequently awarded to it.

2.22 Confidentiality

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

2.23 Clarifications

2.23.1 To facilitate evaluation of Proposals, the [HTC] 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 [HTC] for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.23.2 If an Applicant does not provide clarifications sought under Clause 2.23.1 above within the specified time, its Proposal shall be liable to be rejected. In case the Proposal is not rejected, the [HTC] 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 [HTC].

E. APPOINTMENT OF TRANSACTION ADVISOR

2.24 Negotiations

2.24.1 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 TA 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. A Key Personnel who did not score 70% (seventy per cent) marks as required under Clause 3.1.2 shall be replaced by the Applicant with a better candidate to the satisfaction of the [HTC]. In case the Selected Applicant fails to reconfirm its commitment, the [HTC] reserves the right to [designate the next ranked Applicant as the Selected Applicant and invite it for negotiations.]

2.24.2 The [HTC] 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 [HTC].

2.24.3 The [HTC] will examine the credentials of all Sub-TAs proposed for this Assignment and those not found suitable shall be replaced by the Applicant to the satisfaction of the [HTC].

2.25 Substitution of Key Personnel

2.25.1 The [HTC] will not normally consider any request of the Selected Applicant for substitution of Key Personnel as the ranking of the Applicant is based on the evaluation of Key Personnel and any change therein may upset the ranking. 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 [HTC].

2.25.2 The [HTC] expects all the Key Personnel to be available during implementation of the Agreement. The [HTC] will not consider substitution of Key Personnel except for reasons of any incapacity or due to health. Such substitution shall ordinarily be limited to one Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the [HTC]. As a condition to such substitution, a sum equal to 1% (one per cent) of the remuneration specified for the original Key Personnel shall be deducted from the payments due to the TA. In the case of a second substitution hereunder, such deduction shall be 2%

(two per cent) of the remuneration specified for the original Key Personnel. Any further substitution may lead to disqualification of the Applicant or termination of the Agreement.

2.25.3 Substitution of the Team Leader will not normally be considered and may lead to disqualification of the Applicant or termination of the Agreement

2.26 Indemnity

The TA shall, subject to the provisions of the Agreement, indemnify the [HTC] for an amount not exceeding 3 (three) times the value of the Agreement for any direct loss or damage that is caused due to any deficiency in services.

2.27 Award of Assignment

After selection, a Letter of Award (the “LOA”) shall be issued, in duplicate, by the [HTC] 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 [HTC] may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Applicant as mutually agreed genuine pre-estimated loss and damage suffered by the [HTC] on account of failure of the Selected Applicant to acknowledge the LOA, and the next highest ranking Applicant may be considered.

2.28 Execution of Agreement

After acknowledgement of the LOA as aforesaid by the Selected Applicant, it shall execute the Agreement within the period prescribed in Clause 1.8. The Selected Applicant shall not be entitled to seek any deviation in the Agreement.

2.29 Commencement of assignment

The TA shall commence the Services at the Project site within 7 (seven) days of the date of the Agreement, or such other date as may be mutually agreed. If the TA fails to either sign the Agreement as specified in Clause 2.28 or commence the assignment as specified herein, the [HTC] may invite the second ranked Applicant for negotiations. In such an event, the Bid Security of the first ranked Applicant shall be forfeited and appropriated in accordance with the provisions of Clause 2.20.4.

2.30 Proprietary data

Subject to the provisions of Clause 2.22, all documents and other information provided by the [HTC] or submitted by an Applicant to the [HTC] shall remain or become the property of the [HTC]. Applicants and the TA, as the case may be, are to treat all information as strictly confidential. The [HTC] will not return any Proposal or any information related thereto. All information collected, analysed, processed or in whatever manner provided by the TA to the [HTC] in relation to the Assignment shall be the property of the [HTC].

3. CRITERIA FOR EVALUATION

3.1 Evaluation of Technical Proposals

3.1.1 In the first stage, the Technical Proposal will be evaluated on the basis of Applicant's experience, [understanding of TOR and proposed methodology and work plan,] and the experience of Key Personnel. Only those Applicants whose Technical Proposals get a score of 70 marks or more out of 100 shall qualify for further consideration, and shall be ranked from highest to the lowest on the basis of their technical score (ST).

3.1.2 Each Key Personnel must score a minimum of 70% marks except as provided herein. A Proposal shall be rejected if the Team Leader scores less than 70% marks or any two of the remaining Key Personnel score less than 70% marks. In case the Selected Applicant has one Key Personnel, other than the Team Leader, who scores less than 70% marks, he would have to be replaced during negotiations, with a better candidate who, in the opinion of the [HTC], would score 70% or above.

3.1.3 The scoring criteria to be used for evaluation shall be as follows.

Item Code	Parameter	Maximum Marks ⁶	Criteria
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1.	Relevant Experience of the Applicant	[20]	30% of the maximum marks shall be awarded for the number of similar [(Theme/adventure/amusement Park Development and Management of Convention Centre)] projects; 15% for one and 30% for more than one projects 70% for other work on PPP, in the infrastructure sectors; (50% for minm. 5 PPP projects and 70% for more than 5, in last 5yrs)
2.	[Presentation reflecting Concept, Proposed Methodology and Work Plan]	[10]	[Evaluation will be based on the quality of presentation and of submissions.]
3	Relevant Experience of the Key Personnel	70	30% of the maximum marks for each of Key Personnel shall be awarded for the number of similar [(Development and Management of Convention Centre, Theme/adventure/amusement Park)] Assignments, the respective Key Personnel has worked on, (20% for eligibility prescribed in 2.2.2(C) and 30% for more projects than eligibility). 70% shall be awarded for other works on PPP, in infrastructure sectors.
3(a)	Team Leader and PPP Expert	30	
3(b)	[Architect Planner]	[15]	
3(c)	[Event Management]	[15]	
3(d)	Financial Expert	10	
Grand Total		100	

⁶ Key personnel and their respective maximum marks may be suitably modified to meet the project specific requirements

3.1.4 Eligible Assignments

For the purposes of determining Conditions of Eligibility and for evaluating the Proposals under this RFP, Transaction Advisory Assignments in respect of PPP projects for the following projects shall be deemed as eligible assignments (the “**Eligible Assignments**”):

(i) feasibility study and Transaction Advisory Services for [Theme Park/ Adventure Park and or Amusement Park, development and or operation & maintenance of convention centres]

(ii) transaction advisory services for any infrastructure project,

3.2 Short-listing of Applicants

The Applicants scoring marks of 70 and more shall be considered to have been pre-qualified and shortlisted for financial evaluation in the second stage.

3.3 Evaluation of Financial Proposal

3.3.1 In the second stage, the financial evaluation will be carried out as per this Clause

3.3. Each Financial Proposal will be assigned a financial score (SF).

3.3.2 For financial evaluation, the total cost indicated in the Financial Proposal, will be considered.

3.3.3 The [HTC] 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. Omissions, if any, in costing any item shall not entitle the firm to be compensated and the liability to fulfil its obligations as per the TOR within the total quoted price shall be that of the TA. The lowest Financial Proposal (FM) will be given a financial score (SF) of 100 points. The financial scores of other proposals will be computed as follows:

$$SF = 100 \times FM/F$$

(F = amount of Financial Proposal)

3.4 Combined and final evaluation

3.4.1 Proposals will finally be ranked according to their combined technical (ST) and financial (SF) scores as follows:

$$S = ST \times Tw + SF \times Fw$$

Where S is the combined score, and Tw and Fw are weights weight ages assigned to Technical Proposal and Financial Proposal that shall be 0.80 and 0.20 respectively.

3.4.2 [The Selected Applicant shall be the first ranked Applicant (having the highest combined score). The second ranked Applicant shall be kept in reserve and may be invited for negotiations in case the first ranked Applicant withdraws, or fails to comply with the requirements specified in Clauses 2.24, 2.28 and 2.29, as the case may be.]

4. FRAUD AND CORRUPT PRACTICES

4.1 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 [HTC] 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 [HTC] shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the [HTC] for, *inter alia*, time, cost and effort of the [HTC], in regard to the RFP, including consideration and evaluation of such Applicant’s Proposal.

4.2 Without prejudice to the rights of the [HTC] under Clause 4.1 hereinabove and the rights and remedies which the [HTC] may have under the LOA or the Agreement, if an Applicant or TA, as the case may be, is found by the [HTC] 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 TA shall not be eligible to participate in any tender or RFP issued by the [HTC] during a period of 2 (two) years from the date such Applicant or TA, as the case may be, is found by the [HTC] 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.

4.3 For the purposes of this Section, the following terms shall have the meaning hereinafter respectively assigned to them:

- (a) “**corrupt practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the 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 [HTC] 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 there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the [HTC], 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 TA/ adviser of the [HTC] 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 [HTC] 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.

5. PRE-PROPOSAL CONFERENCE

5.1 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 for the [HTC], 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 [HTC] letter from the Applicant.

5.2 During the course of Pre-Proposal Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the [HTC]. The [HTC] 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.

6. MISCELLANEOUS

6.1 The Selection Process shall be governed by, and construed in accordance with, the laws of Haryana and the Courts at [Chandigarh] shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.

6.2 The [HTC], in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

- (a) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
- (b) consult with any Applicant in order to receive clarification or further information;
- (c) retain any information and/or evidence submitted to the [HTC] by, on behalf of and/or in relation to any Applicant; and/or
- (d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Applicant.

6.3 It shall be deemed that by submitting the Proposal, the Applicant agrees and releases the [HTC], its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

6.4 All documents and other information supplied by the [HTC] or submitted by an Applicant shall remain or become, as the case may be, the property of the [HTC]. The [HTC] will not return any submissions made hereunder. Applicants are required to treat all such documents and information as strictly confidential.

6.5 The [HTC] reserves the right to make inquiries with any of the clients listed by the Applicants in their previous experience record.

SCHEDULES

SCHEDULE-1

The Terms of Reference (TOR)⁷ for Transaction Advisor (TA)

⁷ The Terms of Reference (TOR) are for a project of Tourism Sector and is meant for guidance in formulating the project specific TOR

The Terms of Reference (TOR)

1. General

1.1.[Panchkula is a planned city in Panchkula district, Haryana, India. It is a satellite city of the Union Territory of Chandigarh and is part of Chandigarh Capital Region. It also shares seamless border with Mohali district in Punjab. The prestigious Chandimandir Cantonment Headquarters of the Indian Army Western Command, is also located in Panchkula city. There are five towns in the Panchkula district, Pinjore, Kalka, Barwala, Morni and Raipur Rani. Morni is the only Hill station in Haryana. The estimated population of Panchkula city, in 2006, was 2,00,000. Panchkula and Mohali (in Punjab) are two satellite cities of Chandigarh. These three cities are collectively known as Chandigarh Tricity. Panchkula is surrounded by Himachal Pradesh in the north and east, Punjab and Union Territory of Chandigarh in the west and by Ambala district in the south as well as east. Panchkula district shares its borders with Chandigarh, Mohali, Solan and Ambala districts.



1.2 [Red Bishop is the tourist complex developed in Panchkula, on Chandigarh – Panchkula Highway, by Haryana Tourism Corporation. It is located about 10 km from Chandigarh and has Conference Hall, Banquet Hall, Committee Room and Rooms for stay. [HTC] has acquired around 2.5 acre land adjacent to Red Bishop complex and proposes to develop and an integrated multi functional Convention Centre.]⁸

2. OBJECTIVE

The objective of this Assignment is to get the Transaction Advise for development of the [master plan, broad features and cost estimation of the multi purpose Convention Centre,] preparation of a feasibility report, structuring of a financially viable project on [Operate, Maintain and Transfer] basis and assistance in selection of suitable private partner.

3. SCOPE OF SERVICES

3.1 Scope of Services

The scope of services shall mainly comprise

- (i) Development of [Master Plan and] Feasibility Report of the Project
- (ii) Marketing of the project
- (iii) Administration of bid process

-
- Pre- Qualification
 - Request for Proposal
 - Draft Concession Agreement
 - Schedules of Agreement
 - Approval and floating of RfP document
 - Pre-bid Conference
 - Bid Evaluation
 - Contract Negotiations
 - Assistance in signing of Agreement

⁸ Project details and its geographical environment may be given

3.2 [Development of Master Plan and] Feasibility Report

3.2.1 [The Transaction Advisor would be required to prepare a Master Plan (MP) for the development of multi purpose Convention Centre as per best practices so that the Centre could be utilised for holding of conventions, seminars, meetings, exhibitions, performances, social gatherings. The possibility of provision of restaurants, shopping arcade etc would also be examined. The master plan would include access / exiting, parking facilities, public conveniences etc. The MP will contain a graphical and narrative description of development and their integration with architectural treatment of existing and proposed facilities.]

3.2.2 [Based on the master plan finalized in consultation with [HTC],] The TA will prepare a [Detailed Project] Feasibility Report (FR) for the project, in line with best international practice. [with design and project cost estimation. TA would then identify the main basic infrastructure facilities which can be taken up for construction by the [HTC] such that its cost is not more than estimated INR 5 cr. The balance infrastructure facilities would be developed by the selected private partner.]

3.2.3 TA Feasibility Report for the Project shall cover the broad scope of project, estimated cost, its affordability, potential form of PPP, requirement of private finance, optimum scope of PPP, risks identification, allocation and estimation. The financial structuring / packaging of the project shall be based on the considerations that the risks are allocated optimally to the partner best suited to handle it.[some components of the facilities would be provided by [HTC] and the balance facilities / furnishings would be done by the private partner before he starts its operation & maintenance activities, period of concession would be not very long (say around 10 years).] A fair analysis of the need assessment, affordability assessment, preliminary risk assessment and optimal Value for Money(VfM) method of delivery shall be done while preparing the Feasibility Report.

3.3 Marketing of the Project

The success of the project would depend not only on good concept plan but also on its proper marketing. As such, the TA is expected to have a very good set up for marketing the concept plan, ultimately attracting a large number of investors private entities, who are ready to invest money on [the developed Master Plan and operate and run the Convention Centre] prepared by the TA at the terms and conditions mentioned in the R.F.P.

3.4 Administration of bid process

The TA must prepare a complete set of procurement documents, complying with Govt. of India and Govt. of Haryana procurement law, policies and guidelines. The documentation must be consistent with the results of Feasibility [Project] Report.

The TA must also provide to [HTC] all the drafting, bidder communication and administrative support necessary for the entire procurement process to be conducted in accordance with applicable law and policy and to the highest standards of efficiency, quality and integrity.

3.4.1 Pre- Qualification

TA shall design and administer a pre-qualification process, issue the Request for Pre – Qualification (RfQ) Document with the intention of :

- Ensuring that [HTC]'s interest regarding the project, is clearly communicated to the prospective bidders/ investors
- Requesting the prospective bidders/ investors to indicate their interest based on the information in RfQ
- Pre- qualifying a competitive number of competent private partners in a manner that is equitable, open, transparent and the result of which would be that each bidder is capable of providing the facilities and services required by the [HTC].

TA must prepare all necessary RfQ documents with qualification criteria defined, prepare advertisement material and assist the [HTC] in PQ process in evaluation and pre-qualification of bidders.

3.4.2 Request for Proposal

Transaction Advisor must prepare the Request for Proposal (RfP) documents in accordance with the best industry practices, consistence with the project feasibility report. RfP must clearly set out; scope of the work, design brief, broad output specifications, revenue streams, financial parameters, bid process, bid evaluation criteria and communication systems etc.

3.4.3 Draft Concession Agreement

A Draft Concession Agreement to be signed between the selected bidder and the [HTC] shall be prepared by the Transaction Advisor, based on the best industry practice and the risk matrix developed in the project report. A close liaison with the

[HTC] and with PPP unit would be maintained in preparation of documents. It would include but not limited to, the terms of Concession; conditions precedence; financial closure, services to be provided; out put based specifications of the project; obligations of the private sector player; construction work requirements, operation & maintenance requirements; events of defaults, consequences of defaults, risk & responsibility, events of force majeure, dispute resolution, institutional framework including requirement of independent quality control, financing, lender's rights, transfer of facility, and other legal and related clauses and all the other relevant details required for the project on PPP.

3.4.4 Schedules of Agreement

The technical, financial, legal Schedules, which would be integral part of Concession Agreement would cover; brief of existing site; scope of work, applicable bylaws and regulation, broad specification for construction; operation & maintenance of the facility during the concession; minimum implementation & operational standards, detailed scope of activities/work for the facility, financing arrangements, indicative list of clearances, formats of various other agreements required for the project in support of the Concession.

3.4.5 Approval and floating of RfP document

After preparing of RfP documents, TA will submit them to the [HTC] for comments and suggestions. Pursuant to the incorporation of comments and suggestions, final approval will be taken from the [HTC]. Pursuant to the approval of RfP documents including the Concession Agreement and its Schedules, the pre-qualified bidders would be issued the RfP document for submission of their proposals as per the terms of RfP document.

3.4.6 Pre-bid Conference

TA will assist the [HTC] in the process of Pre-bid Conference. He would make a presentation during the pre-bid conference to be bidders showing the project details and the main issues/contents of the RfP document such as features and bidding parameters; payment mechanism etc. TA will also answer the written and verbal queries of the bidders on the project as well as RfP document in consultation with the [HTC]. A complete record of the comments/suggestions of the bidders on the RfP documents shall be recorded by the TA and the RfP document be revised in consultation with the [HTC].

3.4.7 Bid Evaluation

The Transaction Advisor would assist Evaluation Committee of the [HTC], in the evaluation of the received the proposals from various private sector players. TA would evaluate the proposals as per the criteria stipulated in the RfP. Transaction Advisor would demonstrate how value for money and risk transfer will be achieved with the preferred bidder within the affordability limits. Value for Money must be demonstrated by comparing the Net Present Value of the bid received to the NPV of the revised Risk- Adjusted PSC for the project. The Value for Money (VfM) report must be in a suitable format and of a suitable standard for the approval of the [HTC] and in determination of best and final offer.

3.4.8 Contract Negotiations

Transaction Advisor shall assist the [HTC] in final negotiations with the preferred bidder. This will entail the preparation of suitable negotiations teams, strategies, categorization of issues, negotiation tactics and process of reaching agreement. Transaction Advisor must in close liaison with the [HTC], draft a comprehensive Contract Management Plan for the [HTC] in accordance with the provision of PPP agreement and in accordance with the best industries practices.

3.4.9 Assistance in signing of Agreement

Transaction Advisor must assist the [HTC] in signing the Agreement with the preferred bidder, after the submission of performance security and other guarantees in accordance with the provisions of the Concession Agreement.

4. TIME AND PAYMENT SCHEDULE

4.1 The total duration for this Assignment of Transaction Advice shall be [18 (Eighteen)] months, excluding the time taken by the [HTC] in providing the requisite documents or in conveying its comments on the [Drafts for Master Plan, Project Report], bid documents.

[The TA shall deploy its Key Personnel as per the Deployment of Personnel proposed.]

4.2 Time schedule for important Deliverables (the “**Key Dates**”) of the Assignment and the payment schedule linked to the specified Deliverables is given below:

Description of Deliverables	Cumulative Months No. ⁹	Payment
[Master Plan and Project] Feasibility Report	[3]	20% of total fee.
Tender Documents (RfQ, RfP, Concession Agreement etc.)	[6]	25% of total fee.
Pre-Qualification of bidders	[10]	10% of total fee.
Tender Evaluation and Award of the project as per terms and conditions of RFP Document prepared by TA approved by competent [HTC]	[16]	35% of total fee.
Execution of Agreement	[18]	10% of total fee

⁹ Time Schedule may be suitably modified as per the project specific requirements

4.2 The payment will be as per the mile stone fixed in proforma for financial bid after the approval of [HTC]. 5% security will be deducted from each payment which will be refunded after 3 months from the date of getting final payment.

5. MEETINGS

The [HTC] may review with the TA, any or all of the documents and advice forming part of the Assignment, in meetings and conferences which will be held in [Chandigarh] at the [HTC]'s office. Further, the TA may be required to attend meetings and conferences with pre-qualified Bidders or the Selected Bidder. The expenses towards attending such meetings during the period of Assignment, shall be met by the TA.

6. TRANSACTION ADVISORY TEAM

6.1 The TA shall form a multi-disciplinary team (the “**Transaction Advisory Team**”) for undertaking this assignment. The following Key Personnel whose experience and responsibilities are briefly described herein would be considered for evaluation of the Technical Proposal. These key personnel shall be provided adequate support, as necessary, in completion of the Assignment.

Key Personnel	Educational Qualification	Professional Experience (in yrs.)	Job Responsibility
Team Leader and PPP Expert	[Masters Degree in Engineering and or Management]	10	He will lead, coordinate and supervise the multi-disciplinary team. It will be his responsibility to guide the team in arriving at solutions within the constraints specified in the TOR
[Architect Planner]	[Degree in Architecture]	[10]	Responsible for preparation of [aesthetically pleasing and sustainable master plan and project report]
[Event Management Expert]	[Degree in Management]	[5]	[Assessment of potential of most preferable and profitable use of the facilities]
Financial Expert	Post Graduate in Business Management/ Commerce/ Chartered Accountant or equivalent	7	Responsible for financial analysis and modelling of the Project.

6.2 The key personnel of the team must be personally available, in Chandigarh, to do the work as and when required to do.

7. REPORTING

7.1 The TA will work closely with the [HTC]. The [HTC] has established a Working Group (the “**WG**”) to enable conduct of this assignment. A designated Project Director of the [HTC] will be responsible for the overall coordination and project

development. He will play a coordinating role in dissemination of the TA's outputs, facilitating discussions, and ensuring required reactions and responses to the TA.

7.2 The TA may prepare Issue Papers highlighting issues that could become critical for the timely completion of the Project and that require attention from the [HTC].

7.3 The TA will make a presentation on the inception report for discussion with the WG at a meeting. This will be a working document. The TA is required to prepare and submit a monthly report that includes and describes, *inter alia*, general progress to date; data and reports obtained and reviewed, conclusions to date, if any; concerns about availability of, or access to, data, analyses, reports; questions regarding the TOR or any other matters regarding work scope and related issues; and so on. The TAs' work on the TOR tasks should continue while the report is under consideration and is being discussed.

7.4 Regular communication with the WG and the Project Director is required in addition to all key communications. This may take the form of telephone/teleconferencing, emails, faxes, and occasional meetings.

7.5 The Deliverables will be submitted as per schedule provided in this RFP.

8. COMPLETION OF SERVICES

8.1 All the outputs/deliverables of the assignments including primary data shall be compiled, classified and submitted by the TA to the [HTC] in soft form apart from the reports indicated in the Deliverables (para 4). The assignments outputs shall remain the property of the [HTC] and shall not be used for any purpose other than that intended under these Terms of Reference without the permission of the [HTC]. The Assignment shall stand completed on acceptance by the [HTC] of all the Deliverables of the TA and execution of the Concession Agreement or 18 (eighteen) months from the Effective Date, whichever is earlier. The [HTC] shall issue a certificate to that effect. The Assignment shall in any case be deemed to be completed upon expiry of [18] months from the Effective Date, unless extended by mutual consent of the [HTC] and the TA.

SCHEDULE-2
(See Clause 2.1.3)

Agreement

For

Transaction Advisory Services

For

**[Development of Multi- Functional Convention Centre at
Panchkula] on [Operation, Maintenance and Transfer
Basis]**

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AGREEMENT

Transaction Advisory Services
For
[Development Of Multi- Functional Convention Centre]

AGREEMENT No. _____

This AGREEMENT (hereinafter called the “**Agreement**”) is made on the _____ day of the month of _____ [2010], between, on the one hand, the [Managing Director, Haryana Tourism Development Corporation,] (hereinafter called the “[**HTC**]” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, _____ (hereinafter called the “**Transaction Advisor - TA**” which expression shall include their respective successors and permitted assigns).

WHEREAS

- (A) The [HTC] vide its Request for Proposal for Preparation of Feasibility Report (hereinafter called the “**Assignment**”) for [Operation, Maintenance and Transfer Of Convention Centre at Panchkula] (hereinafter called the “**Project**”);
- (B) the TA submitted its proposals for the aforesaid assignment, whereby the TA represented to the [HTC] that it had the required professional skills, and in the said proposals the TA also agreed to provide the Services to the [HTC] on the terms and conditions as set forth in the RFP and this Agreement; and
- (C) the [HTC], on acceptance of the aforesaid proposals of the TA, awarded the Assignment to the TA vide its Letter of Award dated _____ (the “**LOA**”); and
- (D) in pursuance of the LOA, the parties have agreed to enter into this Agreement.

NOW, THEREFORE, the parties hereto hereby agree as follows:

1. GENERAL

1.1 Definitions and Interpretation

1.1.1 The words and expressions beginning with capital letters and defined in this Agreement shall, unless the context otherwise requires, have the meaning hereinafter respectively assigned to them:

- (a) “**Additional Costs**” shall have the meaning set forth in Clause 6.1.2;
- (b) “**Agreement**” means this Agreement, together with all the Annexes;
- (c) “**Agreement Value**” shall have the meaning set forth in Clause 6.1.2;
- (d) “**Applicable Laws**” means the laws and any other instruments having the force of law in India and in Haryana as they may be issued and in force from time to time;
- (e) “**Confidential Information**” shall have the meaning set forth in Clause 3.3;
- (f) “**Conflict of Interest**” shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- (g) “**Dispute**” shall have the meaning set forth in Clause 9.2.1;
- (h) “**Effective Date**” means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- (i) “**Government**” means the Government of Haryana;
- (j) “**₹, INR, Re. or Rs.**” means Indian Rupees;
- (k) “**Member**”, in case the TA consists of a joint venture or consortium of more than one entity, means any of these entities, and “**Members**” means all of these entities;
- (l) “**Party**” means the [HTC] or the TA, as the case may be, and Parties means both of them;
- (m) “**Personnel**” means persons hired by the TA or by any Sub-TA as employees and assigned to the performance of the Services or any part thereof;
- (n) “**Resident Personnel**” means such persons who at the time of being so hired had their domicile inside India;
- (o) “**RFP**” means the Request for Proposal document in response to which the TA’s proposal for providing Services was accepted;
- (p) “**Services**” means the work to be performed by the TA pursuant to this Agreement, as described in the Terms of Reference hereto;

(q) “**Third Party**” means any person or entity other than the Government, the [HTC], the TA.

All terms and words not defined herein shall, unless the context otherwise requires, have the meaning assigned to them in the RFP.

1.1.2 The following documents along with all addenda issued thereto shall be deemed to form and be read and construed as integral parts of this Agreement and in case of any contradiction between or among them the priority in which a document would prevail over another would be as laid down below beginning from the highest priority to the lowest priority:

- (a) Agreement;
- (b) Annexes of Agreement;
- (c) RFP; and
- (d) Letter of Award.

1.2 Relation between the Parties

Nothing contained herein shall be construed as establishing a relation of master and servant or of agent and principal as between the [HTC] and the TA. The TA shall, subject to this Agreement, have complete charge of Personnel performing the Services and shall be fully responsible for the Services performed by them or on their behalf hereunder.

1.3 Rights and obligations

The mutual rights and obligations of the [HTC] and the TA shall be as set forth in the Agreement, in particular:

- (a) the TA shall carry out the Services in accordance with the provisions of the Agreement; and
- (b) the [HTC] shall make payments to the TA in accordance with the provisions of the Agreement.

1.4 Governing law and jurisdiction

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India and Haryana, and the courts at [Chandigarh] shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

1.5 Language

All notices required to be given by one Party to the other Party and all other communications, documentation and proceedings which are in any way relevant to this Agreement shall be in writing and in English language.

1.6 Table of contents and headings

The table of contents, headings or sub-headings in this Agreement are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this Agreement.

1.7 Notices

Any notice or other communication to be given by any Party to the other Party under or in connection with the matters contemplated by this Agreement shall be in writing and shall:

(a) in the case of the TA, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the TA's Representative set out below in Clause 1.10 or to such other person as the TA may from time to time designate by notice to the [HTC]; provided that notices or other communications to be given to an address outside ***** may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by facsimile or e-mail to the number as the TA may from time to time specify by notice to the [HTC];

(b) in the case of the [HTC], be given by facsimile or e-mail and by letter delivered by hand and be addressed to the [HTC] with a copy delivered to the [HTC] Representative set out below in Clause 1.10 or to such other person as the [HTC] may from time to time designate by notice to the TA; provided that if the TA does not have an office in Chandigarh, it may send such notice by facsimile or e-mail and by registered acknowledgement due, air mail or by courier; and

(c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of facsimile or e-mail, it shall be deemed to have been delivered on the working days following the date of its delivery.

1.8 Location

The Services shall be performed at the site of the Project in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the TA.

1.9 [HTC] of Member-in-charge

In case the TA consists of a consortium of more than one entity, the Parties agree that the Lead Member shall act on behalf of the Members in exercising all the TA’s rights and obligations towards the [HTC] under this Agreement, including without limitation the receiving of instructions and payments from the [HTC].

1.10 Authorised Representatives

1.10.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the [HTC] or the TA, as the case may be, may be taken or executed by the officials specified in this Clause 1.10.

1.10.2 The [HTC] may, from time to time, designate one of its officials as the [HTC] Representative. Unless otherwise notified, the [HTC] Representative shall be:

Tel: ***** Fax: ***** E-mail: *****

1.10.3 The TA may designate one of its employees as TA’s Representative. Unless otherwise notified, the TA’s Representative shall be:

Tel: _____

Mobile: _____

Fax: _____

Email: _____

1.11 Taxes and duties

Unless otherwise specified in the Agreement, the TA shall pay all such taxes, duties, fees and other impositions as may be levied under the Applicable Laws and the [HTC] shall perform such duties in regard to the deduction of such taxes as may be lawfully imposed on it.

2. COMMENCEMENT, COMPLETION AND TERMINATION OF AGREEMENT

2.1 Effectiveness of Agreement

This Agreement shall come into force and effect on the date of this Agreement (the “Effective Date”).

2.2 Commencement of Services

The TA shall commence the Services within a period of 7 (seven) days from the Effective Date, unless otherwise agreed by the Parties.

2.3 Termination of Agreement for failure to commence Services

If the TA does not commence the Services within the period specified in Clause 2.2 above, the [HTC] may, by not less than 2 (two) weeks’ notice to the TA, declare this Agreement to be null and void, and in the event of such a declaration, the Bid Security of the TA shall stand forfeited.

2.4 Expiration of Agreement

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 15 (Fifteen) days after the delivery of the final deliverable to the [HTC]; and (ii) the expiry of [18] months from the Effective Date. Upon Termination, the [HTC] shall make payments of all amounts due to the TA hereunder.

2.5 Entire Agreement

2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and

no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the TA arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.

2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1, on matters not covered by this Agreement, the provisions of RFP shall apply.

2.6 Modification of Agreement

Modification of the terms and conditions of this Agreement, including any modification of the scope of the Services, may only be made by written agreement between the Parties. Pursuant to Clauses 4.2.3 and 6.1.3 hereof, however, each Party shall give due consideration to any proposals for modification made by the other Party.

2.7 Force Majeure

2.7.1 Definition

(a) For the purposes of this Agreement, “**Force Majeure**” means an event which is beyond the reasonable control of a Party, 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 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 agents or employees, nor (ii) any event which a diligent Party could reasonably have been expected to both (A) take into account at the time of the conclusion of this Agreement, and (B) avoid or overcome in the carrying out of its obligations hereunder.

(c) Force Majeure shall not include insufficiency of funds or failure to make any payment required hereunder.

2.7.2 No breach of Agreement

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 Agreement 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 Agreement.

2.7.3 Measures to be taken

(a) A Party affected by an event of Force Majeure shall take all reasonable measures to remove such Party's inability to fulfil its obligations hereunder with a minimum of delay.

(b) A Party affected by an event of Force Majeure shall notify the other Party of such event as soon as possible, and in any event not later than 14 (fourteen) days following the occurrence of such event, providing evidence of the nature and cause of such event, and shall similarly give notice of the restoration of normal conditions as soon as possible.

(c) The Parties shall take all reasonable measures to minimise the consequences of any event of Force Majeure.

2.7.4 Extension of time

Any period within which a Party shall, pursuant to this Agreement, 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.

2.7.5 Payments

During the period of its inability to perform the Services as a result of an event of Force Majeure, the TA shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purposes of the Services and in reactivating the Services after the end of such period.

2.7.6 Consultation

Not later than 30 (thirty) days after the TA has, as the result of an event of Force Majeure, become unable to perform a material portion of the Services, the Parties shall consult with each other with a view to agreeing on appropriate measures to be taken in the circumstances.

2.8 Suspension of Agreement

The [HTC] may, by written notice of suspension to the TA, suspend all payments to the TA hereunder if the TA shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the TA to remedy such breach or failure within a period not exceeding 30 (thirty) days after receipt by the TA of such notice of suspension.

2.9 Termination of Agreement

2.9.1 By the [HTC]

The [HTC] may, by not less than 30 (thirty) days' written notice of termination to the TA, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this Agreement if:

- (a) the TA fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 30 (thirty) days of receipt of such notice of suspension or within such further period as the [HTC] may have subsequently granted in writing;
- (b) the TA becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary;
- (c) the TA fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the TA submits to the [HTC] a statement which has a material effect on the rights, obligations or interests of the [HTC] and which the TA knows to be false;
- (e) any document, information, data or statement submitted by the TA in its Proposals, based on which the TA was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the TA is unable to perform a material portion of the Services for a period of not less than 30 (thirty) days; or
- (g) the [HTC], in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

2.9.2 By the TA

The TA may, by not less than 30 (thirty) days' written notice to the [HTC],

such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- (a) the [HTC] fails to pay any money due to the TA pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty five) days after receiving written notice from the TA that such payment is overdue;
- (b) the [HTC] is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty five) days (or such longer period as the TA may have subsequently granted in writing) following the receipt by the [HTC] of the TA's notice specifying such breach;
- (c) as the result of Force Majeure, the TA is unable to perform a material portion of the Services for a period of not less than 30 (thirty) days; or
- (d) the [HTC] fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

2.9.3 Cessation of rights and obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 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, or which expressly survive such Termination;
- (ii) the obligation of confidentiality set forth in Clause 3.3 hereof;
- (iii) the TA's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.6, as relate to the TA's Services provided under this Agreement; and
- (iv) any right or remedy which a Party may have under this Agreement or the Applicable Law.

2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the TA 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 TA and equipment and materials furnished by the [HTC], the TA shall proceed as provided respectively by Clauses 3.9 or 3.10 hereof.

2.9.5 Payment upon Termination

Upon termination of this Agreement pursuant to Clauses 2.9.1 or 2.9.2 hereof, the [HTC] shall make the following payments to the TA (after offsetting against these payments any amount that may be due from the TA to the [HTC]):

- (i) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (ii) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- (iii) except in the case of termination pursuant to sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the TA's personnel.

2.9.6 Disputes about Events of Termination

If either Party disputes whether an event specified in Clause 2.9.1 or in Clause 2.9.2 hereof has occurred, such Party may, within 30 (thirty) days after receipt of notice of termination from the other Party, refer the matter to arbitration pursuant to Clause 9 hereof, and this Agreement shall not be terminated on account of such event except in accordance with the terms of any resulting arbitral award.

3. OBLIGATIONS OF THE TA

3.1 General

3.1.1 Standards of Performance

The TA shall perform the Services and carry out its obligations hereunder with all due diligence, efficiency and economy, in accordance with generally accepted professional techniques and practices, and shall observe sound management practices, and employ appropriate advanced technology and safe and effective equipment, machinery, materials and methods. The TA shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the [HTC], and shall at all times support and safeguard the [HTC]'s legitimate interests in any dealings with Sub-TAs or Third Parties.

3.1.2 Terms of Reference

The scope of services to be performed by the TA is specified in the Terms of Reference (the “**TOR**”) at Annex-1 of this Agreement. The TA shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

3.1.3 Applicable Laws

The TA shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that the Personnel and agents of the TA, comply with the Applicable Laws.

3.2 Conflict of Interest

3.2.1 The TA shall not have a Conflict of Interest and any breach hereof shall constitute a breach of the Agreement.

3.2.2 Prohibition of conflicting activities

Neither the TA nor its Personnel shall engage, either directly or indirectly, in any of the following activities:

- (a) during the term of this Agreement, any business or professional activities which would conflict with the activities assigned to them under this Agreement;
- (b) after the termination of this Agreement, such other activities as may be specified in the Agreement; or
- (c) at any time, such other activities as have been specified in the RFP as Conflict of Interest.

3.2.3 TA not to benefit from commissions, discounts, etc.

The remuneration of the TA pursuant to Clause 6 hereof shall constitute the TA's sole remuneration in connection with this Agreement or the Services and the TA shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the TA shall use its best efforts to ensure that its Personnel and agents, shall not receive any such additional remuneration.

3.2.4 TA not to benefit from commissions, discounts, etc.

The remuneration of the TA pursuant to Clause 6 hereof shall constitute the TA's sole remuneration in connection with this Agreement or the Services and the TA shall not accept for its own benefit any trade commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the TA shall use its best efforts to ensure that its Personnel and agents shall not receive any such additional remuneration.

3.2.5 The TA and its Personnel shall observe the highest standards of ethics and shall not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the

“**Prohibited Practices**”). Notwithstanding anything to the contrary contained in this Agreement, the [HTC] shall be entitled to terminate this Agreement forthwith by a communication in writing to the TA, without being liable in any manner whatsoever to the TA, if it determines that the TA has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the [HTC] shall forfeit and appropriate the performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the [HTC] towards, *inter alia*, the time, cost and effort of the [HTC], without prejudice to the [HTC]’s any other rights or remedy hereunder or in law.

3.2.6 Without prejudice to the rights of the [HTC] under Clause 3.2.5 above and the other rights and remedies which the [HTC] may have under this Agreement, if the TA is found by the [HTC] to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices, during the Selection Process or before or after the execution of this Agreement, the TA shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the TA is found by the [HTC] to have directly or indirectly or through an agent, engaged or indulged in any Prohibited Practices.

3.2.7 For the purposes of Clauses 3.2.5 and 3.2.6, the following terms shall have the meaning hereinafter respectively assigned to them:

(a) “**corrupt practice**” means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the [HTC] who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement 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 [HTC], shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of 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 adviser the [HTC] in relation to any matter concerning the Project;

(b) “**fraudulent practice**” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;

(c) “**coercive practice**” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the [HTC] under this Agreement;

(d) “**undesirable practice**” means (i) establishing contact with any person connected with or employed or engaged by the [HTC] 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.

3.3 Confidentiality

The TA, its Personnel shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the [HTC] to the TA, its Personnel; any information provided by or relating to the [HTC], its technology, technical processes, business affairs or finances or any information relating to the [HTC]’s employees, officers or other professionals or suppliers, customers, or contractors of the [HTC]; and any other information which the TA is under an obligation to keep confidential in relation to the Project, the Services or this Agreement (“**Confidential Information**”), without the prior written consent of the [HTC]. Notwithstanding the aforesaid, the TA, its Personnel may disclose Confidential Information to the extent that such Confidential Information:

(i) was in the public domain prior to its delivery to the TA, its Personnel of either of them or becomes a part of the public knowledge from a source other than the TA, its Personnel of either of them;

(ii) was obtained from a third party with no known duty to maintain its confidentiality;

(iii) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the TA, its shall give the [HTC], prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and

(iv) is provided to the professional advisers, agents, auditors or representatives of the TA or its Personnel, as is reasonable under the circumstances; provided, however, that the TA or its Personnel, as the case may be, shall require their professional advisers, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

3.4 Liability of the TA

3.4.1 The TA's liability under this Agreement shall be determined by the Applicable Laws and the provisions hereof.

3.4.2 The TA shall, subject to the limitation specified in Clause 3.4.3, be liable to the [HTC] for any direct loss or damage accrued or likely to accrue due to deficiency in Services rendered by it.

3.4.3 The Parties hereto agree that in case of negligence or wilful misconduct on the part of the TA or on the part of any person or firm acting on behalf of the TA in carrying out the Services, the TA, with respect to damage caused to the [HTC]'s property, shall not be liable to the [HTC]:

(i) for any indirect or consequential loss or damage; and

(ii) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause 6.1.2 of this Agreement, or (b) the proceeds the TA may be entitled to receive from any insurance maintained by the TA to cover such a liability in accordance with Clause 3.5.2, whichever of (a) or (b) is higher.

3.4.4 This limitation of liability specified in Clause 3.4.3 shall not affect the TA's liability, if any, for damage to Third Parties caused by the TA or any person or firm acting on behalf of the TA in carrying out the Services subject, however, to a limit equal to 3 (three) times the Agreement Value.

3.5 Insurance to be taken out by the TA

3.5.1 (a) The TA shall, for the duration of this Agreement, take out and maintain at its own cost, but on terms and conditions approved by the [HTC], insurance against the risks, and for the coverage, as specified in the Agreement and in accordance with good industry practice.

(b) Within 15 (fifteen) days of receiving any insurance policy certificate in respect of insurances required to be obtained and maintained under this clause, the TA shall furnish to the [HTC], copies of such policy certificates, copies of the insurance policies and evidence that the insurance premium have been paid in respect of such insurance. No insurance shall be cancelled, modified or allowed to expire or lapse during the term of this Agreement.

(c) If the TA fails to effect and keep in force the aforesaid insurances for which it is responsible pursuant hereto, the [HTC] shall, apart from having other recourse available under this Agreement, have the option, without prejudice to the obligations of the TA, to take out the aforesaid insurance, to keep in force any such insurances, and pay such premium and recover the costs thereof from the TA, and the TA shall be liable to pay such amounts on demand by the [HTC].

(d) Except in case of Third Party liabilities, the insurance policies so procured shall mention the [HTC] as the beneficiary of the TA and the TA shall procure an undertaking from the insurance company to this effect; provided that in the event the TA has a general insurance policy that covers the risks specified in this Agreement and the amount of insurance cover is equivalent to 3 (three) times the cover required hereunder, such insurance policy may not mention the [HTC] as the sole beneficiary of the TA or require an undertaking to that effect.

3.5.2 The Parties agree that the risks and coverage shall include but not be limited to the following:

(a) Third Party liability insurance as required under Applicable Laws, with a minimum coverage of [Rs. 6 (six) lakh]¹⁰;

(b) employer's liability and workers' compensation insurance in respect of the Personnel of the TA and of any Sub-TA, in accordance with Applicable Laws; and

¹⁰ This amount may be fixed at 1% of the estimated consultancy cost

(c) professional liability insurance for an amount no less than the Agreement Value. The indemnity limit in terms of “Any One Accident” (AOA) and “Aggregate limit on the policy period” (AOP) should not be less than the amount stated in Clause 6.1.2 of the Agreement. In case of consortium, the policy should be in the name of Lead Member and not in the name of individual Members of the consortium.

3.6 Accounting, inspection and auditing

The TA shall:

- (a) keep accurate and systematic accounts and records in respect of the Services provided under this Agreement, in accordance with internationally accepted accounting principles and in such form and detail as will clearly identify all relevant time charges and cost, and the basis thereof (including the basis of the TA’s costs and charges); and
- (b) permit the [HTC] or its designated representative periodically, and up to one year from the expiration or termination of this Agreement, to inspect the same and make copies thereof as well as to have them audited by auditors appointed by the [HTC].

3.7 Reporting obligations

The TA shall submit to the [HTC] the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

3.8 Documents prepared by the TA to be property of the [HTC]

3.8.1 All plans, drawings, specifications, designs, reports and other documents (collectively referred to as “**Assignment Documents**”) prepared by the TA in performing the Services shall become and remain the property of the [HTC], and all intellectual property rights in such Assignment Documents shall vest with the [HTC]. Any Assignment Document, of which the ownership or the intellectual property rights do not vest with the [HTC] under law, shall automatically stand assigned to the [HTC] as and when such Assignment Document is created and the TA agrees to execute all papers and to perform such other acts as the [HTC] may deem necessary to secure its rights herein assigned by the TA.

3.8.2 The TA shall, not later than termination or expiration of this Agreement, deliver all Assignment Documents to the [HTC], together with a detailed inventory thereof. The TA may retain a copy of such Assignment Documents. The TA, shall not use these Assignment Documents for purposes unrelated to this Agreement without the prior written approval of the [HTC].

3.8.3 The TA shall hold the [HTC] harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as 'claims') which may arise from or due to any unauthorised use of such Assignment Documents, or due to any breach or failure on part of the TA to perform any of its duties or obligations in relation to securing the aforementioned rights of the [HTC].

3.9 Equipment and materials furnished by the [HTC]

Equipment and materials made available to the TA by the [HTC] shall be the property of the [HTC] and shall be marked accordingly. Upon termination or expiration of this Agreement, the TA shall furnish forthwith to the [HTC], an inventory of such equipment and materials and shall dispose of such equipment and materials in accordance with the instructions of the [HTC]. While in possession of such equipment and materials, the TA shall, unless otherwise instructed by the [HTC] in writing, insure them in an amount equal to their full replacement value.

3.10 Providing access to Project Office and Personnel

The TA shall ensure that the [HTC], and officials of the [HTC] having [HTC] from the [HTC], are provided unrestricted access to the Project Office and to all Personnel during office hours. The [HTC]'s official, who has been authorised by the [HTC] in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the TA and verify the records relating to the Services for his satisfaction.

3.11. Accuracy of Documents

The TA shall be responsible for accuracy of the data collected by it directly or procured from other agencies/authorities, the designs, drawings, estimates and all other details prepared by it as part of these services. Subject to the provisions of Clause 3.4, it shall indemnify the [HTC] against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of

any negligence or inadequate due diligence on part of the TA or arises out of its failure to conform to good industry practice. The TA shall also be responsible for promptly correcting, at its own cost and risk, the drawings including any re-survey / investigations.

4. TA'S PERSONNEL

4.1 General

The TA shall employ and provide such qualified and experienced Personnel as may be required to carry out the Services.

4.2 Approval of Personnel

4.3.1 The Professional Personnel listed in Annex-2 of the Agreement are hereby approved by the [HTC]. No other Professional Personnel shall be engaged without prior approval of the [HTC].

4.3.2 If the TA hereafter proposes to engage any person as Professional Personnel, it shall submit to the [HTC] its proposal along with a CV of such person in the form provided at Appendix-I (Form-8) of the RFP. the [HTC] may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Consultant may propose an alternative person for the [HTC]'s consideration. In the event the [HTC] does not reject a proposal within 14 (fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the [HTC].

4.3 Substitution of Key Personnel

The [HTC] expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The [HTC] will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the TA and the concerned Key Personnel. Such substitution shall be limited to not more than two Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the [HTC]. Without prejudice to the foregoing, substitution of one Key Personnel shall be permitted subject to reduction of remuneration equal to 1% (one per cent) of the total fee. In case of a second substitution, such reduction shall be equal to 2% (two per cent) of the total fee.

4.4 Resident Team Leader and Project Manager

The person designated as the Team Leader of the TA's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. In addition, the TA shall designate a suitable person as Project Manager (the "**Project Manager**") who shall be responsible for day to day performance of the Services.

5. OBLIGATIONS OF THE [HTC]

5.1 Assistance in clearances etc.

Unless otherwise specified in the Agreement, the [HTC] shall make best efforts to ensure that the Government shall:

- (a) provide the TA, and Personnel with work permits and such other documents as may be necessary to enable the TA, or Personnel to perform the Services;
- (b) facilitate prompt clearance through customs of any property required for the Services; and
- (c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

5.2 Access to land and property

The [HTC] warrants that the TA shall have, free of charge, unimpeded access to the site of the project in respect of which access is required for the performance of Services; provided that if such access shall not be made available to the TA as and when so required, the Parties shall agree on (i) the time extension, as may be appropriate, for the performance of Services, and (ii) the additional payments, if any, to be made to the TA as a result thereof pursuant to Clause 6.1.3.

5.3 Change in Applicable Law

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the TA in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the Agreement

Value shall be increased or decreased accordingly by agreement between the Parties hereto.

5.4 Payment

In consideration of the Services performed by the TA under this Agreement, the [HTC] shall make to the TA such payments and in such manner as is provided in Clause 6 of this Agreement.

6. PAYMENT TO THE TA

6.1 Cost estimates and Agreement Value

6.1.1 An abstract of the cost of the Services payable to the TA is set forth in Annex- 4 of the Agreement.

6.1.2 Except as may be otherwise agreed under Clause 2.6 and subject to Clause 6.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the “**Agreement Value**”). The Parties agree that the Agreement Value is Rs. (Rupees). which does not include the Additional Costs (the “**Additional Costs**”).

6.1.3 Notwithstanding anything to the contrary contained in Clause 6.1.2, if pursuant to the provisions of Clauses 2.6 and 2.7, the Parties agree that additional payments shall be made to the TA in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1.1 above, the Agreement Value set forth in Clause 6.1.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

6.2 Currency of payment

All payments shall be made in Indian Rupees. The TA shall be free to convert Rupees into any foreign currency as per Applicable Laws.

6.3 Mode of billing and payment

Billing and payments in respect of the Services shall be made as follows:-

(a) The TA shall be paid for its services as per the Payment Schedule at Annex-4 of this Agreement, subject to the TA fulfilling the following conditions:

(i) Payment shall be made after the approval of the deliverable of that milestone by [HTC].

(ii) No payment shall be due for the next stage till the TA completes, to the satisfaction of the [HTC], the work pertaining to the preceding stage.

(ii) The [HTC] shall pay to the TA, only the undisputed amount.

(c) The [HTC] shall cause the payment due to the TA to be made within 30 (thirty) days after the receipt by the [HTC] of duly completed bills with necessary particulars (the “**Due Date**”). Interest at the rate of 10% (ten per cent) per annum shall become payable as from the Due Date on any amount due by, but not paid on or before, such Due Date.

(d) The final payment under this Clause shall be made only after the final report and a final statement, identified as such, shall have been submitted by the TA and approved as satisfactory by the [HTC]. The Services shall be deemed completed and finally accepted by the [HTC] and the final deliverable shall be deemed approved by the [HTC] as satisfactory upon expiry of 90 (ninety) days after receipt of the final deliverable by the [HTC] unless the [HTC], within such 90 (ninety) day period, gives written notice to the TA specifying in detail, the deficiencies in the Services. The TA shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The [HTC] shall make the final payment upon acceptance or deemed acceptance of the final deliverable by the [HTC]. (e) Any amount which the [HTC] has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the TA to the [HTC] within 30 (thirty) days after receipt by the TA of notice thereof. Any such claim by the [HTC] for reimbursement must be made within 1 (one) year after receipt by the [HTC] of a final report in accordance with Clause 6.3 (d). Any delay by the TA in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.

(f) 10% (ten per cent) of the Agreement Value has been earmarked as Final Payment to be made to the TA upon execution of the Concession Agreement. In the event the Concession Agreement does not get executed within 18 (eighteen) months of the Effective Date, the Final Payment shall not become due to the TA, save and except the costs incurred for meeting its reimbursable expenses during the period after expiry of 18 (eighteen) weeks from the Effective Date, including travel costs and personnel costs, at the agreed rates.

(g) All payments under this Agreement shall be made to the account of the TA as may be notified to the [HTC] by the TA.

7. LIQUIDATED DAMAGES AND PENALTIES

7.1 Performance Security

7.1.1 The [HTC] shall retain by way of performance security (the “**Performance Security**”), 5% (five per cent) of all the amounts due and payable to the TA, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2 herein. The balance remaining out of the Performance Security shall be returned to the TA at the end of 3 (three) months after the expiration of this Agreement pursuant to Clause 2.4 hereof.

7.1.2 The TA may, in lieu of retention of the amounts as referred to in Clause 7.1.1 above, furnish a Bank Guarantee substantially in the form specified at Annex-5 of this Agreement

7.2 Liquidated Damages

7.2.1 Liquidated Damages for error/variation

In case any error or variation is detected in the reports submitted by the TA and such error or variation is the result of negligence or lack of due diligence on the part of the TA, the consequential damages thereof shall be quantified by the [HTC] in a reasonable manner and recovered from the TA by way of deemed liquidated damages, subject to a maximum of 50% (fifty per cent) of the Agreement Value.

7.2.2 Liquidated Damages for delay

In case of delay in completion of Services, liquidated damages not exceeding an amount equal to 0.2% (zero point two per cent) of the Agreement Value per day, subject to a maximum of 10% (ten per cent) of the Agreement Value will be imposed and shall be recovered by appropriation from the Performance Security or otherwise. However, in case of delay due to reasons beyond the control of the TA, suitable extension of time shall be granted.

7.2.3 Encashment and appropriation of Performance Security

The [HTC] shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the TA in the event of

breach of this Agreement or for recovery of liquidated damages specified in this Clause 7.2.

7.3 Penalty for deficiency in Services

In addition to the liquidated damages not amounting to penalty, as specified in Clause 7.2, warning may be issued to the TA for minor deficiencies on its part. In the case of significant deficiencies in Services causing adverse effect on the Project or on the reputation of the [HTC], other penal action including debarring for a specified period may also be initiated as per policy of the [HTC].

8. FAIRNESS AND GOOD FAITH

8.1 Good Faith

The Parties undertake to act in good faith with respect to each other's rights under this Agreement and to adopt all reasonable measures to ensure the realisation of the objectives of this Agreement.

8.2 Operation of the Agreement

The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement 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 failure to agree on any action pursuant to this Clause shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

9. SETTLEMENT OF DISPUTES

9.1 Amicable settlement

The Parties shall use their best efforts to settle amicably all disputes arising out of or in connection with this Agreement or the interpretation thereof.

9.2 Dispute resolution

9.2.1 Any dispute, difference or controversy of whatever nature howsoever arising under or out of or in relation to this Agreement (including its interpretation) between the Parties, and so notified in writing by either Party to the other Party (the “**Dispute**”) shall, in the first instance, be attempted to be resolved amicably in accordance with the conciliation procedure set forth in Clause 9.3.

9.2.2 The Parties agree to use their best efforts for resolving all Disputes arising under or in respect of this Agreement promptly, equitably and in good faith, and further agree to provide each other with reasonable access during normal business hours to all non privileged records, information and data pertaining to any Dispute.

9.3 Conciliation

In the event of any Dispute between the Parties, either Party may call upon [Chairman, Haryana Tourism Corporation] and the Chairman of the Board of Directors of the TA or a substitute thereof for amicable settlement, and upon such reference, the said persons shall meet no later than 10 (ten) days from the date of reference to discuss and attempt to amicably resolve the Dispute. If such meeting does not take place within the 10 (ten) day period or the Dispute is not amicably settled within 15 (fifteen) days of the meeting or the Dispute is not resolved as evidenced by the signing of written terms of settlement within 30 (thirty) days of the notice in writing referred to in Clause 9.2.1 or such longer period as may be mutually agreed by the Parties, either Party may refer the Dispute to arbitration in accordance with the provisions of Clause

9.4 Arbitration

9.4.1 Any Dispute which is not resolved amicably by conciliation, as provided in Clause 9.3, shall be finally decided by reference to arbitration by an Arbitral Tribunal appointed in accordance with Clause 9.4.2. Such arbitration shall be held in accordance with the Rules of Arbitration of the International Centre for Alternative Dispute Resolution, New Delhi (the “**Rules**”), or such other rules as may be mutually agreed by the Parties, and shall be subject to the provisions of the Arbitration and Conciliation Act, 1996. The venue of such arbitration shall be Chandigarh and the language of arbitration proceedings shall be English.

9.4.2 There shall be an Arbitral Tribunal of three arbitrators, of whom each Party shall select one, and the third arbitrator shall be appointed by the two arbitrators so

selected, and in the event of disagreement between the two arbitrators, the appointment, the third arbitrator be appointed by [Financial Commissioner and Special Secretary Tourism,] Government of Haryana.

9.4.3 The arbitrators shall make a reasoned award (the “**Award**”). Any Award made in any arbitration held pursuant to this Clause 9 shall be final and binding on the Parties as from the date it is made, and the TA and the [HTC] agree and undertake to carry out such Award without delay.

9.4.4 The TA and the [HTC] agree that an Award may be enforced against the TA and/or the [HTC], as the case may be, and their respective assets wherever situated.

9.4.5 Agreement and the rights and obligations of the Parties shall remain in full force and effect, pending the Award in any arbitration proceedings hereunder.

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

SIGNED, SEALED

SIGNED, SEALED AND

AND DELIVERED

DELIVERED

For and on behalf of

For and on behalf of

TA:

[[HTC]

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

(Fax No.)

(Fax No.)

In the presence of:

1.

2.

Annex-1

Terms of Reference

(Refer Clause 3.1.2)

(Reproduce Schedule-1 of RFP)

Annex-2

(Refer Clause 4.2)

Particulars of Key Personnel

S. No.	Designation	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Assignments
					Name of Firm	Employed Since	
1	Team Leader And PPP Expert						
2.	[Architect Planner]						
3	[Event Management Expert]						
4	Financial Expert						

Annex-3

Cost of Services

(Refer Clause 6.1)

(Reproduce as per Form-2 of Appendix-II)

Annex-4
Payment Schedule¹¹
 (Refer Clause 6.3)

Description of Deliverables	Cumulative Months No.	Payment
[Master Plan and] Feasibility Report	[3]	20% of total fee.
Tender Documents (RfQ, RfP, Concession Agreement etc.)	[6]	25% of total fee.
Pre-Qualification of bidders	[10]	10% of total fee.
Tender Evaluation and Award of the project as per terms and conditions of RFP Document prepared by TA approved by competent [HTC]	[16]	35% of total fee.
Execution of Agreement	[18]	10% of total fee

Notes:

1. *The above payments shall be made to the TA provided that the payments to be made at any time shall not exceed the amount certified by the TA in its Statement of Expenses.*
2. *All Reports shall first be submitted as draft reports for comments of the [HTC]. The [HTC] shall provide its comments no later than 3 (three) weeks from the date of receiving a draft report and in case no comments are provided within such 3 (three) weeks, the TA shall finalise its report. Provided, however, that the [HTC] may take up to 4 (four) weeks in providing its comments on the Draft Feasibility Report.*

¹¹ The payment Schedule should be in conformity with the schedule provided in the TOR

Annex- 5

Bank Guarantee for Performance Security

(Refer Clause 7.1.2)

To

The Governor of Haryana

acting through

[Managing Director

Haryana Tourism Corporation]

In consideration of ***** acting on behalf of the Governor of Haryana (hereinafter referred as the [HTC], 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 the [HTC]’s Agreement no. dated

..... valued at Rs. (Rupees), (hereinafter referred to as the “Agreement”) Transaction Advisory Services for [Development of Convention Centre at Panchkula] on [Operate, maintain and Transfer] basis and the Transaction Advisor having agreed to furnish a Bank Guarantee amounting to Rs. (Rupees) to the [HTC] for performance of the said Agreement.

1. We, (hereinafter referred to as the “Bank”) at the request of the Transaction Advisor do hereby undertake to pay to the [HTC] an amount not exceeding Rs. (Rupees) against any loss or damage caused to or suffered or would be caused to or suffered by the [HTC] by reason of any breach by the said Transaction Advisor of any of the terms or conditions contained in the said Agreement.

2. We, (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the [HTC] stating that the amount/claimed is due by way of loss or damage caused to or would be caused to or suffered by the [HTC] by reason of breach

by the said Transaction Advisor of any of the terms or conditions contained in the said Agreement or by reason of the Transaction Advisor'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 Rs. (Rupees).

3. We, (indicate the name of Bank) undertake to pay to the [HTC] any money so demanded notwithstanding any dispute or disputes raised by the Transaction Advisor 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 Transaction Advisor 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 [HTC] under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the [HTC] certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Transaction Advisor and accordingly discharges this Guarantee. Unless a demand or claim under 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 [HTC] that the [HTC] 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 Transaction Advisor from time to time or to postpone for any time or from time to time any of the powers exercisable by the [HTC] against the said Transaction Advisor 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 reason of any such variation, or extension being granted to the said Transaction Advisor or for any forbearance, act or omission on the part of the [HTC] or any indulgence by the [HTC] to the said Transaction Advisor or

any such matter or thing whatsoever which under the law relating to sureties would, but for this provision, have the effect of so relieving us.

6. This Guarantee will not be discharged due to the change in the constitution of the Bank or the Transaction Advisor(s).

7. We, (indicate the name of Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the [HTC] in writing.

8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. *** crore (Rupees ***** crore) only. The Bank shall be liable to pay the said amount or any part thereof only if the [HTC] serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before [*** (indicate date falling 180 days after the date of this Guarantee)].

For

Name of Bank:

Seal of the Bank:

Dated, the day of, 20

(Signature, name and designation of the authorised signatory)

NOTES:

(i) The Bank Guarantee should contain the name, designation and code number 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.

SCHEDULE-3

(See Clause 2.3.3)

Guidance Note on Conflict of Interest

1. This Note further explains and illustrates the provisions of Clause 2.3 of the RFP and shall be read together therewith in dealing with specific cases.
2. Transaction Advisors should be deemed to be in a conflict of interest situation if it can be reasonably concluded that their position in a business or their personal interest could improperly influence their judgment in the exercise of their duties. The process for selection of Transaction Advisors should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the [HTC] and a Transaction Advisor or between Transaction Advisors and present or future concessionaries/ contractors. Some of the situations that would involve conflict of interest are identified below:
 - (a) [HTC] and Transaction Advisors:
 - (i) Potential Transaction Advisor should not be privy to information from the [HTC] which is not available to others; or
 - (ii) potential Transaction Advisor should not have defined the project when earlier working for the [HTC]; or
 - (iii) potential Transaction Advisor should not have recently worked for the [HTC] overseeing the project.
 - (b) Transaction Advisors and concessionaires/contractors:
 - (i) No Transaction Advisor should have an ownership interest or a continuing business interest or an on-going relationship with a potential concessionaire/ contractor save and except relationships restricted to project-specific and short-term assignments; or
 - (ii) no Transaction Advisor should be involved in owning or operating entities resulting from the project; or
 - (iii) no Transaction Advisor should bid for works arising from the project.

The participation of companies that may be involved as investors or consumers and officials of the [HTC] who have current or recent connections to the companies involved, therefore, needs to be avoided.

4. The normal way to identify conflicts of interest is through self-declaration by Transaction Advisors. Where a conflict exists, which has not been declared, competing companies are likely to bring this to the notice of the [HTC]. All conflicts must be declared as and when the Transaction Advisors become aware of them.

5. Another approach towards avoiding a conflict of interest is through the use of “Chinese walls” to avoid the flow of commercially sensitive information from one part of the Transaction Advisor’s company to another. This could help overcome the problem of availability of limited numbers of experts for the project. However, in reality effective operation of “Chinese walls” may be a difficult proposition. As a general rule, larger companies will be more capable of adopting Chinese walls approach than smaller companies. Although, “Chinese walls” have been relatively common for many years, they are an increasingly discredited means of avoiding conflicts of interest and should be considered with caution. As a rule, “Chinese walls” should be considered as unacceptable and may be accepted only in exceptional cases upon full disclosure by a Transaction Advisor coupled with provision of safeguards to the satisfaction of the [HTC].

6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if Transaction Advisors drawing up the terms of reference or the proposed documentation are also eligible for the consequent assignment or project.

7. Another form of conflict of interest called “scope-creep” arises when Transaction Advisors advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the [HTC] but which will generate further work for the Transaction Advisors. Some forms of contractual arrangements are more likely to lead to scope-creep. For example, lump-sum contracts provide fewer incentives for this, while time and material contracts provide built in incentives for Transaction Advisors to extend the length of their assignment.

8. Every project contains potential conflicts of interest. Transaction Advisors should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the [HTC] at the earliest. Officials of the [HTC] involved in development of a project shall be responsible for identifying and resolving any

conflicts of interest. It should be ensured that safeguards are in place to preserve fair and open competition and measures should be taken to eliminate any conflict of interest arising at any stage in the process.

PART-2

APPENDICES

APPENDIX-I

(See Clause 2.1.3)

TECHNICAL PROPOSAL

Form-1

Letter of Proposal

(On Applicant's letter head)

(Date and Reference)

To,

[The Managing Director

Haryana Tourism Corporation

Chandigarh.]

Sub: Appointment of Transaction Advisor for [Development of Convention Centre at Panchkula] on [Operate, Maintain and Transfer] basis.

Dear Sir,

With reference to your RFP Document dated, I/we, having examined all relevant documents and understood their contents, hereby submit our Proposal for selection as Transaction Advisor for [Development of Convention Centre at Panchkula] on '[Operate, Maintain and Transfer] basis. The proposal is unconditional and unqualified.

2. All information provided in the Proposal and in the Appendices is true and correct and all documents accompanying such Proposal are true copies of their respective originals.

3. This statement is made for the express purpose of appointment as the Transaction Advisor for the aforesaid Project.

4. I/We shall make available to the [HTC] any additional information it may deem necessary or require for supplementing or authenticating the Proposal.

5. I/We acknowledge the right of the [HTC] to reject our application without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.

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

7. I/We declare that:

(a) I/We have examined and have no reservations to the RFP Documents, including any Addendum issued by the [HTC];

(b) I/We do not have any conflict of interest in accordance with Clause 2.3 of the RFP Document;

(c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the [HTC] or any other public sector enterprise or any government, Central or State; and

(d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.

8. I/We understand that you may cancel the Selection Process at any time and that you are neither bound to accept any Proposal that you may receive nor to select the Transaction Advisor, without incurring any liability to the Applicants in accordance with Clause 2.8 of the RFP document.

9. I/We declare that we/any member of the consortium, are/is not a Member of a/any other Consortium applying for Selection as a Transaction Advisor.

10. I/We certify that in regard to matters other than security and integrity of the country, we or any of our Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory [HTC] which would cast a doubt on our ability to undertake the Consultancy for the Project or which relates to a grave offence that outrages the moral sense of the community.

11. I/We further certify that in regard to matters relating to security and integrity of the country, we have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.

12. I/We further certify that no investigation by a regulatory [HTC] is pending either against us or against our Associates or against our CEO or any of our Directors/Managers/ employees.

13. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the in connection with the selection of Transaction Advisor or in connection with the Selection Process itself in respect of the above mentioned Project.

14. The Bid Security of Rs. ***** (Rupees *****) in the form of a Demand Draft is attached, in accordance with the RFP document.

15. I/We agree and understand that the proposal is subject to the provisions of the RFP document. In no case, shall I/we have any claim or right of whatsoever nature if the Consultancy for the Project is not awarded to me/us or our proposal is not opened or rejected.

16. I/We agree to keep this offer valid for 90 (ninety) days from the Proposal Due Date specified in the RFP.

17. A Power of Attorney in favour of the authorised signatory to sign and submit this Proposal and documents is attached herewith in Form 4.

18. In the event of my/our firm/ consortium being selected as the Transaction Advisor, I/we agree to enter into an Agreement in accordance with the form at

Schedule–2 of the RFP. We agree not to seek any changes in the aforesaid form and agree to abide by the same.

19. I/We have studied RFP and all other documents carefully and also surveyed the Project site. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the [HTC] or in respect of any matter arising out of or concerning or relating to the Selection Process including the award of Consultancy.

20. The Financial Proposal is being submitted in a separate cover. This Technical Proposal read with the Financial Proposal shall constitute the Application which shall be binding on us.

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

Yours faithfully,

(Signature, name and designation of the authorised signatory)

(Name and seal of the Applicant / Lead Member)

APPENDIX-I

Form-2

Statement of Legal Capacity

(To be forwarded on the letter head of the Applicant)

Ref. Date:

To,

Dear Sir,

Sub: RFP for Transaction Advisor for [Development of Convention Centre at Panchkula] on [Operate, Maintain and Transfer] basis.

I/We hereby confirm that we, the Applicant (along with other members in case of consortium, constitution of which has been described in the Proposal*), satisfy the terms and conditions laid down in the RFP document.

I/We have agreed that (insert Applicant's name) will act as the Lead Member of our consortium.

I/We have agreed that (insert individual's name) will act as our Authorised Representative/ will act as the Authorised Representative of the consortium on our behalf and has been duly authorized to submit our Proposal. Further, the authorised signatory is vested with requisite powers to furnish such proposal and all other documents, information or communication and authenticate the same.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of

**Please strike out whichever is not applicable*

APPENDIX-I

Form-3

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 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 the Transaction Advisor for [Development of Convention Centre at Panchkula] on [Operate, Maintain and Transfer] basis, proposed to [be developed by the Haryana Tourism Corporation] 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 [HTC], representing us in all matters before the [HTC], signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the [HTC] 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 [HTC].

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.

Notarised Accepted

.....

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

Notes:

The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure. The Power of Attorney should be executed on a non-judicial stamp paper of Rs. 100 (one hundred) and duly notarised by a notary public. Wherever required, the Applicant should submit for verification the extract of the charter documents and other documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.

APPENDIX –I

Form4

Particulars of Key Personnel

S. No.	Designation	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Assignments
					Name of Firm	Employed Since	
1	Team Leader And PPP Expert						
2.	[Architect Planner]						
3	[Event Management Expert]						
4	Financial Expert						
5	[Environmenta l Expert]						

APPENDIX-I

[Form-5

Proposed Methodology, Work Plan and Presentation

The proposed methodology and work plan shall be described as follows:

1. Understanding of TOR (not more than two pages)

The Applicant shall clearly state its understanding of the TOR and also highlight its important aspects. The Applicant may supplement various requirements of the TOR and also make precise suggestions if it considers this would bring more clarity and assist in achieving the Objectives laid down in the TOR.

2. Methodology and Work Plan (not more than three pages)

The Applicant will submit its methodology for carrying out this assignment, outlining its approach toward achieving the Objectives laid down in the TOR. The Applicant will submit a brief write up on its proposed team and organisation of personnel explaining how different areas of expertise needed for this assignment have been fully covered by its proposal. In case the Applicant is a consortium, it should specify how the expertise of each firm is proposed to be utilised for this assignment. The Applicant should specify the sequence and locations of important activities, and provide a quality assurance plan for carrying out the Consultancy Services.

Note: Marks will be deducted for writing lengthy and out of context responses.]

APPENDIX-I

Form-6

Abstract of Eligible Assignments of the Applicant#

(Refer Clause 3.1.4)

S.No.	Name of Project	Name of Client	Estimated capital cost of Project (in Rs. crore/	Payment of professional fees received by Applicant (in Rs. crore)
1				
2				
3				

#The Applicant should provide details of only those projects that have been undertaken by it under its own name.

APPENDIX-I

Form-7

Eligible Assignments of Key Personnel

(Refer Clause 3.1.4)

Name of Key Personnel:

Designation of Key Personnel:

Name of the Project:

Length in km or other particulars

Name of Consulting Firm where employed:

Description of services performed by
the Key Personnel (including designation):

Name of client and Address:

(indicate whether public or private)

Name, telephone no. and fax no.

of client's representative:

Estimated capital cost of the Project

(in Rs. crore or US\$ million):

Start date and finish date of the services

(month/ year):

Brief description of the Project:

It is certified that the aforesaid information is true and correct to the best of my
knowledge and belief.

(Signature and name of Key Personnel)

Notes:

- 1. Use separate sheet for each Eligible Project.*
- 2. The Applicant may attach separate sheets to provide brief particulars of other relevant experience of the Key Personnel.*

APPENDIX-I

Form-8

Curriculum Vitae (CV) of Key Personnel

1. Proposed Position:

2. Name of Personnel:

3. Date of Birth:

4. Nationality:

5. Educational Qualifications:

6. Employment Record:

(Starting with present position, list in reverse order every employment held.)

7. List of projects on which the Personnel has worked

Name of project	Description of responsibilities
-----------------	---------------------------------

8. Details of the current assignment and the time duration for which services are required for the current assignment.

Certification:

1 I am willing to work on the Project and I will be available for entire duration of the Project assignment as required.

2 I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes myself, my qualifications and my experience.

Place..... (Signature and name of the Key Personnel)

(Signature and name of the authorised signatory of the Applicant)

Notes:

1. Use separate form for each Key Personnel
2. Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

APPENDIX-II

FINANCIAL PROPOSAL

Form-1

Covering Letter

(On Applicant's letter head)

(Date and Reference)

To,

Dear Sir,

Subject: Appointment of Transaction Advisor for [Operate, maintain and Transfer Convention Centre Development of at Panchkula]

I/We, _____ (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm as Transaction Advisor for above.

I/We agree that this offer shall remain valid for a period of 90 (ninety) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,

(Signature, name and designation of the authorised signatory)

***Note:** The Financial Proposal is to be submitted strictly as per forms given in the RFP.*

APPENDIX-II
(See Clause 2.15.1)
Form-2

Financial Proposal

(On the Letter Head of the applicant)

FINANCIAL BID	APPOINTMENT OF TRANSACTION ADVISOR FOR [DEVELOPMENT OF CONVENTION CENTRE AT PANCHKULA] ON [OPERATE, MAINTAIN AND TRANSFER BASIS]
------------------	---

1. Name of the Applicant : -----
2. Address of the Applicant : -----

	Item	Total Fee
1.	Transaction Advisory Services for [Development Of Convention Centre At Panchkula] On [Operate, Maintain And Transfer]	[indicate total fee]
2.	Taxes including service and other applicable, if any	[-----]
3.	Total	[-----]
	[] to be filled by bidder	

