

**Transaction Advisory Consultancy Services  
for Hotel Pondicherry Ashok  
Development of Tourism Zone  
at Kalapet, Pondicherry, UT of Puducherry under PPP Mode**

**REQUEST FOR PROPOSAL (RFP) DOCUMENT**

1	Issued to ( Name of the person collected, designation and address)	
2	Name of Project	<b>Development of Multi Product Zone at Kalapet, Pondicherry, U.T. of Puducherry under PPP Mode</b>
3	Last date for submission of RFP	1500 Hrs IST on <b>18.8.2011</b> at the Office of the <b>Managing Director,</b> <b>Hotel Pondicherry Ashok, Kalapet Beach Puducherry – 605014</b> Tel: +91 0413 -2655160-13 Fax: +91 0413- 2655140
4	Date and Time of opening of Cover 1 of RFP submissions	1600 Hrs IST on 18.08.2011 at the Office of the <b>Managing Director,</b> <b>Hotel Pondicherry Ashok, Kalapet Beach Puducherry – 605014</b> Tel: +91 0413 -2655160-13 Fax: +91 0413- 2655140
5	Bid Processing Fee (Non-Refundable)	Rs. 10,000/- (Rupees Ten Thousand Only) by means of Demand Draft from any Nationalised Indian Commercial Banks payable at Puducherry in favour of Hotel Pondicherry Ashok, Puducherry

**Acknowledgement:**

This document is to be returned duly signed in each page by the authorized person accepting the terms and conditions.

It is expressly understood that the party has subscribed to this document with an express understanding that they will use this document only for the sole purpose of participating in the bid *process* for the selection of Transaction Advisory Consultant for Development of Multi product Zone at Hotel Pondicherry Ashok, Kalapet Beach, Puducherry and must not be used for any other purposes. This document must not be passed to a third party except professional advisers assisting with the bid submission. The document may not be reproduced or communicated, in whole or in part, and its contents may not be distributed in written or oral form.

**Signature of the Issuing Authority**

**Sd/-  
Managing Director,**

**Hotel Pondicherry Ashok,  
Kalapet Beach  
Pondicherry - 605014**

<b>Agreement</b>	As defined in Schedule -2
<b>Agreement Value</b>	As defined in Clause 6.1.2 of Schedule -2
<b>Applicable Laws</b>	As defined in Schedule - 2
<b>Applicant</b>	As defined in Clause 2.1.1
<b>Associate</b>	As defined in Clause 2.3.3
<b>Authorized Representative</b>	As defined in Clause 2.13.3
<b>Authority</b>	As defined in Clause 1.1.1 /1.1.2
<b>Bid Documents</b>	As defined in Clause 1.2
<b>Concession Agreement</b>	As defined in Clause 1.1.2
<b>Concessionaire</b>	As defined in Clause 1.1.2
<b>Conditions of Eligibility</b>	As defined in Clause 2.2.1
<b>Conflict of Interest</b>	As defined in Clause 2.3.1
<b>Consultancy</b>	As defined in Clause 1.2
<b>Consultancy Team</b>	As defined in Clause 7 of Schedule-1
<b>Consultant</b>	As defined in Clause 1.2
<b>CV</b>	Curriculum Vitae
<b>DBFOT</b>	Design, Build, Finance, Operate and Transfer
<b>Deliverables</b>	As defined in Clause 4 of Schedule-1
<b>Documents</b>	As defined in Clause 2.12
<b>Effective Date</b>	As defined in Clause 2.1 of Schedule-2
<b>Eligible Assignments</b>	As defined in Clause 3.1.4
<b>Expatriate Personnel</b>	As defined in Clause 1.1.1(i) of Schedule-2
<b>Financial Proposal</b>	As defined in Clause 2.15.1
<b>Form of Agreement</b>	Form of Agreement as in Schedule -2
<b>INR, Re, Rs.</b>	Indian Rupee(s)
<b>Inception Report</b>	As specified in Clause 4.1.1 of Schedule-1
<b>Key Date or KD</b>	As defined in Clause 5.2 of Schedule-1
<b>Key Personnel</b>	As defined in Clause 2.1.4
<b>LOA</b>	Letter of Award
<b>Lead Member</b>	As defined in Clause 2.1.1
<b>MCA</b>	As defined in Clause 1.1.4

<b>Member</b>	As defined in Clause 2.3.3 (a)
<b>Official Website</b>	As defined in Clause 1.11.1
<b>PPP</b>	Public Private Partnership
<b>Personnel</b>	As defined in Clause 1.1.1(n) of Schedule-2
<b>Project</b>	As defined in Clause 1.1.1
<b>Team Leader-cum- Financial Expert</b>	As defined in Clause 2.1.4 & clause 4.6 of Schedule-2
<b>Professional Personnel</b>	As defined in Clause 2.14.6
<b>Prohibited Practices</b>	As defined in Clause 4.1
<b>Proposal</b>	As defined in Clause 1.2
<b>Proposed Due Date or PDD</b>	As defined in Clause 2.17
<b>RFP</b>	As defined in Disclaimer
<b>Resident Personnel</b>	As defined in Clause 1.1.1(o) of Schedule-2
<b>Revenue Model</b>	As defined in Clause 1.2
<b>Selected Applicant</b>	As defined in Clause 2.24.1
<b>Selection Process</b>	As defined in Clause 1.6
<b>Services</b>	As defined in Clause 1.1.1(q) of Schedule -2
<b>Sole Firm</b>	As defined in Clause 2.1.1
<b>Statement of Expenses</b>	As defined in Note 8, Form-2 of Appendix-II
<b>Statutory Auditor</b>	An Auditor appointed under Applicable Laws
<b>Sub-Consultant</b>	As defined in Clause 1.1.1(r) of Schedule-2
<b>Support Personnel</b>	As defined in Clause 2.14.6
<b>Technical Proposal</b>	As defined in Clause 2.14.1
<b>TOR</b>	As defined in Clause 1.1.4
<b>US\$</b>	United States Dollar

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

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**DISCLAIMER**

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

This RFP is not an agreement or an offer by the Authority to the prospective Applicants or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Proposals pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Consultancy. Such assumptions, assessments and statements do not purport to contain all the information that each Applicant may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisers to consider the objectives, technical expertise and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP, may not be complete, accurate, adequate or correct. Each Applicant should, therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this RFP and obtain independent advice from appropriate sources.

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

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

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

REQUEST FOR PROPOSAL

The Authority 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 Authority is bound to select an Applicant or to appoint the Selected Applicant, as the case may be, for the Consultancy and the Authority reserves the right to reject all or any of the Proposals without assigning any reasons whatsoever.

## LETTER OF INVITATION

To

1. Hotel Pondicherry Ashok (a Unit of PAHCL – a Joint Venture of ITDC and PIPDIC) intends to procure Transaction Advisory consultants to assist for the development of the land belonging to PAHCL for development of Tourism Zone under Public Private Partnership Mode.
2. PAHCL is designated by ITDC (India Tourism Development Corporation) & PIDIC as Nodal Agency (NA) for the project and Hotel Pondicherry Ashok now invites Proposals.
3. More details on the Services are provided in the attached Terms of Reference. The Request for Proposal [RFP] is provided to all the applicants who have offered their willingness to take up this Project in response to the bid called for by PAHCL It is not permissible to transfer this invitation to any other firm.

4. A firm will be selected under Quality & Cost Based Selection as described in this RFP.

5. The RFP includes the following documents:

**Section 1** - Introduction

**Section 2** – Instructions to Consultants (including Data Sheet)

**Section 3** - Criteria for Evaluation

**Section 4** - Fraud and Corrupt Practices

**Section 5** - Pre-Proposal Conference

**Section 6** – Miscellaneous

6. Please inform us, upon receipt:

- That you have received the letter of invitation; and
- Whether you will submit a proposal alone or in association as a Joint Venture confirming joint and several liability or as Sub-consultants.

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7. A pre-proposal conference will be held on 22.07.2011 at 1600 Hrs

8. RFP submissions must be received not later than 1500 Hrs IST on 18.08.2011 in the manner specified in the RFP document at the address given below.

Address for communication:

The Managing Director,  
Hotel Pondicherry Ashok,  
Kalapet Beach  
Puducherry – 605014  
Tel: +91 0413 2655160  
Fax: +91 0413 2655140

## **1. INTRODUCTION**

### **1.1 Background**

**1.1.1** Hotel Pondicherry Ashok (A Unit of PAHCL – A joint venture of India Tourism Development Corporation Limited and PIPDIC) proposes the development of Tourism Zone in the U.T of Puducherry and as part of this endeavor, it is proposed to develop Tourism Zone at Kalapet Beach, U.T of Puducherry through Public Private Partnership (PPP) mode on Design, Build, Finance, Operate and Transfer (the "**DBFOT**") basis.

**1.1.2** With a view to invite bids for the Project, PAHCL (Hotel Pondicherry Ashok)(Authority) has decided to conduct a techno economic study for determining the technical feasibility and financial viability of the Project. If found technically feasible and financially viable, the Project may be awarded on DBFOT basis to a private entity / Entities (the "**Concessionaire(s)**") selected through a competitive bidding process. The Project would be implemented in accordance with the terms and conditions stated in the concession agreement to be entered into between the Authority (Hotel Pondicherry Ashok) and the Concessionaire (the "**Concession Agreement**").

**1.1.3** In pursuance of the above, the Authority has decided to carry out the process for selection of a Transaction Advisory Consultant for preparing the Feasibility Report and bid documents. The Technical Consultant will prepare the Feasibility Report and the Legal Consultants associated will prepare the draft concession agreement based on the Model Concession Agreement (MCA) and other relevant documentation for this work. The Transaction Advisory Consultant shall develop the revenue model and project structure in accordance with the Terms of Reference specified at Schedule-1 (the "**TOR**") and assist the Authority in the bidding process.

### **1.2 Request for Proposal**

**1.2.1** The Authority invites proposals from interested firms (the "**Proposals**") for selection of a Transaction Advisory Consultant(the "**Consultant**") who shall develop suitable revenue models and appropriate structure for the Project, prepare bid documents for selection of the Concessionaire (the "**Bid Documents**") and assist the Authority in the bidding process

**1.2.2** The Authority intends to select the Consultant through competitive bidding process in accordance with the procedure set out herein.

### **1.3 Due diligence by Applicants**

Applicants are encouraged to be informed themselves fully about the assignment and the local conditions before submitting the Proposal by paying a visit to the Authority and the Project site, sending written queries to the Authority, and attending a Pre-Proposal Conference on the date and time specified in Clause 1.10

### **1.4 Sale of RFP Document**

**1.4.1** The Cost of this RFP document is Rs.10,000/- (Rupees Ten Thousand only). This RFP document can be obtained from Hotel Pondicherry Ashok between 08.45 hrs and 17.45 hrs on payment of non refundable fee of Rs.10,000/- (Rupees Ten Thousand only) by way of demand draft drawn in favour of Hotel Pondicherry Ashok on any scheduled bank payable in Puducherry.

**1.4.2** Alternatively, the RFP document can be downloaded from [www.ashokresort.com](http://www.ashokresort.com) / [www.theashokgroup.com](http://www.theashokgroup.com) / [www.tenders.nic.in](http://www.tenders.nic.in) and in such cases, the bidders will be required to pay non refundable fee Rs.10,000/- (Rupees Ten Thousand only) by the way of demand draft drawn in favour of Hotel Pondicherry Ashok on any scheduled bank payable in Puducherry at the time of submission of proposals. Any proposal not submitted with the above prescribed non-refundable fees will be rejected.

**1.4.3** The RFP document will be provided to all the applicants who have offered their willingness to take up this Project.

### **1.5 Validity of the Proposal**

The Proposal shall be valid for a period of not less than 120 days from the Proposal Due Date (the "PDD").

### **1.6 Brief description of the Selection Process**

The Authority has proposed to adopt a two stage selection process (collectively the "**Selection Process**") in evaluating the Proposals comprising technical and financial bids to be submitted in two separate sealed envelopes. In the first stage, a technical evaluation will be carried out 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, a financial evaluation will be carried out 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. Selection after being completed shall not be a subject of dispute and can not be questioned in any forum

### **1.7 Currency and payment**

All payments to the Consultant shall be made in **INR only** in accordance with the provisions of this RFP.

### **1.8 Schedule of Selection Process**

The Authority would endeavor to adhere to the following schedule:

<b>Event Description</b>	<b>Estimated Date</b>
i. Last date for receiving	<b>18.08. 2011 (1500 Hrs)</b> Queries /clarifications
ii. Pre-Proposal Conference	<b>22.07.2011 (16.00 Hrs)</b>
iii. Last date of Authority response to queries	<b>02.08. 2011</b>
iv. <b>Proposal Due Date or PDD</b>	<b>18.08. 2011 (15.00 Hrs)</b>
v. Opening of Proposals	
a) Technical Proposal	<b>18.08.2011 (16.00Hrs)</b>
b) Financial proposal	To be notified
vi. Signing of Agreement	<b>Within 7days from issue of LoA</b>
vii. Validity of Applications	<b>120 days</b> from Proposal Due Date

### **1.9 Pre-Proposal visit and inspection of data**

Prospective applicants may visit the office of the Project Authority and the Project site and review the available documents and data at any time prior to PDD. For this purpose, they will provide at least two days' notice to the Nodal Officer specified below:

General Manager  
Hotel Pondicherry Ashok  
Phone: 0413-2655160  
Mobile: 9894376999  
Email:gm@ashokresort.com

### **1.10 Pre –proposal Conference:**

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

Date: 22.07.2011 Time: 1600 hrs  
Venue : Hotel Pondicherry Ashok,  
Kalapet Beach,  
Puducherry – 605014.

### **1.11 Communications**

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

The Managing Director  
Hotel Pondicherry Ashok,  
Kalapet Beach  
Puducherry – 605014.  
Phone: +91-0413-2655160-13  
Fax: +91-0413-2655140  
Email: [gm@ashokresort.com](mailto:gm@ashokresort.com)  
The Official Website of the Authority is: <http://www.ashokresort.com>

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

RFP Notice No.

**FOR SELECTION OF TRANSACTION ADVISORY CONSULTANT FOR  
“Development of Tourism Zone at Hotel Pondicherry Ashok, Kalapet Beach  
Puducherry under PPP Mode”**

## **2.0 INSTRUCTIONS TO CONSULTANTS**

### **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 Consultancy are specified in this RFP. In case an applicant firm possesses the requisite experience and capabilities required for undertaking the Consultancy, it may participate in the Selection Process either individually (the "**Sole Firm**") or as lead member of a consortium of firms (the "**Lead Member**") in response to this invitation. The

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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 Consultant shall be on the basis of an evaluation by the Authority through the Selection Process specified in this RFP. Applicants shall be deemed to have understood and agreed that no explanation or justification for any aspect of the Selection Process will be given and that the Authority's decisions are without any right of appeal whatsoever.

**2.1.3** The Applicant shall submit its Proposal in the form and manner specified in this 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 Authority in the form specified at Schedule-2.

#### **2.1.4 Key Personnel**

The Consultant's team (the "**Consultancy Team**") shall consist of the following key personnel (the "**Key Personnel**") who shall discharge their respective responsibilities as specified below:

##### **Key Personnel Responsibilities**

##### **i. Team Leader**

He shall lead, co-ordinate and supervise the Consultancy Team for delivering the Consultancy in a timely manner as envisaged in this RFP. He shall not delegate his responsibilities except with the prior written approval of the Authority

##### **ii. Financial Expert**

He shall prepare the detail financial report, viability statements, sources of funding, Viability gap funding and also arrive at the probable revenue model for the Company

##### **iii Associate Consultant – Achitect/Technical**

The technical consultant shall provide the necessary specifications and standards for the development of the project.

##### **iv Associate Consultant – Legal**

The legal consultant shall assist in preparation of all documents and

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provide due diligence on the bidding documents and the concession agreements shall be conversant with laws as applicable to Govt. of India and U.T. of Puducherry.

**v. Surveyor**

He shall prepare detail land surveys, topography and the layout of the land for the best placement fo tourism facilities.

**vi. Tourism Analyst**

He shall prepare detailed estimates and plot the demography of tourist along with probable tourist graph as well provide best tourism projects for overall benefit of the Company and the state .

**vii. Environment Analyst**

Being well versed with the Local environment and preparing detail document of the carrying capacity of the site so as to create the least impact on the environment and the overall feasibility of each activity / project being in CRZ zone

**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 shall fulfill the following:

- A) **Technical Capacity:** The Applicant shall have, over the past **7 (seven)** years preceding the PDD, undertaken a minimum of **5 (five)** Eligible Assignments as specified in Clause 3.1.4, of which at least **2 (two)** should be PPP Projects.
- B) **Financial Capacity:** The Applicant shall have received a minimum of Rs.5 crore (Rs. five crore) or US \$ 2.5 (two point five) million per annum as professional fees during each of the three financial years preceding the PDD. For the purpose of evaluation, Applicants having comparatively larger revenues from professional fees shall be given added weightage. For the avoidance of doubt, professional fees hereunder refers to fees received by the Applicant for providing advisory or consultancy services to its clients.
- C) **Availability of Key Personnel:** The Applicant shall offer and make available all Key Personnel meeting the requirements specified in Sub-clause (D) below.

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- D) **\*Conditions of Eligibility for Key Personnel:** Each of the Key Personnel must fulfill the Conditions of Eligibility specified below:

Key Personnel	Educational Qualification	Professional experience
1. Team Leader	MBA	20 years
2. Financial Consultant	MBA(Fin)/ CA or Post graduate in commerce or equivalent	15 years
3. Associate Consultant – Architect / Technical	Graduate in Engineering or Architecture or Equivalent	5 years
4. Associate Consultant – Legal	Graduate in Law/ Equivalent or above in Law	7 years
5. Surveyor	Degree/ Diploma in Engineering or equivalent	3 years
6. Tourism Analyst	Graduate in Tourism, Commerce/ statistics or BBA or MBA	5 Years
7. Environment Analyst	Doctorate or Post Graduate in Environment Science or Equivalent	5 years

\*\*\* Key personal details of experiences are mentioned under Clause 7 Consultancy Team in TOR

- 2.2.3** The Applicant shall enclose with its Proposal, certificate(s) from its Statutory Auditors stating its total revenues from professional fees during each of the past three financial years and the fee received in respect of each of the Eligible Assignments specified in the Proposal. In the event that the Applicant does not have a statutory auditor, it shall provide the requisite certificate(s) from the firm of Chartered Accountants (As defined by Institute of Chartered Accounts of India) that ordinarily audits the annual accounts of the Applicant.
- 2.2.4** The Applicant should submit a Power of Attorney as per the format at Form - 4 of Appendix-I; provided, however, that such Power of Attorney would not be required if the Application is signed by a partner of the Applicant, in case the Applicant is a partnership firm or limited liability partnership.
- 2.2.5** Any entity which has been **barred** by the Central Government, any State Government, a Statutory Authority or a Central / State Public Sector Undertaking, as the case may be, from participating in any project, and the bar subsists as on the date of the Proposal, **would not be eligible** to submit a Proposal either by itself or through its Associate.

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**2.2.6** An Applicant or its Associate should have, during the last three years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant or its Associate, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Applicant or its Associate.

**2.2.7** While submitting a Proposal, the Applicant should attach clearly marked and referenced continuation sheets in the event that the space provided in the specified forms in the Appendices is insufficient, alternatively, Applicants may format the specified forms making due provision for incorporation of the requested information.

### **2.3 Conflict of Interest**

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

**2.3.2** The Authority requires that the Consultant provides professional, objective, and impartial advice and at all times hold the Authority's interests paramount, avoid conflicts with other assignments or its own interests and act without any consideration for future work. The Consultant 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 Authority.

**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 Associates (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 percent 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 percent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 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 other members, if any) and any subsidiaries or entities controlled by such Applicant or having common controlling shareholders. The duties of the Consultant will depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Consultant 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 Authority to provide goods, 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 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% (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.

- 2.3.4.** 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, or is deemed or published as an "Associate Office"; or has a formal arrangement such as tie up for client referral or technology sharing, joint venture or "Best. Friend Relationship" with the Applicant (the "Associate"); provided, however, that if the Applicant has any formal arrangement such as consortium membership in a consortium of advisers/consultants for a particular assignment/ project, not being this project, with any other person, then such other person shall not be treated to be an Associate of the Applicant solely due to the reason of forming such consortium. 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.
- 2.3.5.** An Applicant eventually appointed to provide Consultancy for this Project, its Associates, affiliates and the Financial Expert, 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 any consulting assignments granted by banks/ lenders at any time; provided further that this restriction shall not apply to consultancy/ advisory services performed for the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services performed for the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the Consultant's firm or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof. For the avoidance of doubt, in the event that: (a) the Financial Expert) of an Applicant/ Consultant was a partner or an employee of another firm, which attracts the provisions relating to Conflict of Interest hereunder; and (b) was directly or indirectly associated with any assignment that causes a Conflict) of Interest hereunder, then such Financial Expert shall be deemed to suffer from Conflict of Interest for the purpose hereof.

## **2.4 Number of Proposals**

No Applicant or its Associate shall submit more than one Application for the Consultancy. 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 Authority, Project site etc. The Authority will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Selection Process.

## **2.6 Visit to the Authority and verification of information**

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

## **2.7 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 Authority;
- c) accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority or relating to any of the matters referred to in Clause 2.6 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 Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP or the Selection Process, including any error or mistake therein or in any information or data given by the Authority.

## **2.8 Right to reject any or all Proposals**

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**2.8.1** Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons there for.

**2.8.2** Without prejudice to the generality of Clause 2.8.1, the Authority reserves the right to reject any Proposal if:

- a) at any time, a material misrepresentation is made or discovered, or
- b) the Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal. Misrepresentation/ improper response by the Applicant may lead to the disqualification of the Applicant. If 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 **Authority reserves the right to consider the next best Applicant**, or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

## **B. DOCUMENTS**

### **2.9 Contents of the RFP**

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

#### **Request for Proposal**

- i. Introduction
- ii. Instructions to Applicants
- iii. Criteria for Evaluation
- iv. Fraud and corrupt practices
- v. Pre-Proposal Conference
- vi. Miscellaneous

#### **Schedules**

##### **1 Terms of Reference**

##### **2 Form of Agreement**

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- Annex-1: Terms of Reference
- Annex-2: Deployment of Personnel
- Annex-3: Estimate of Personnel Costs
- Annex-4: Approved Sub-consultant(s)
- Annex-5: Cost of Services
- Annex-6: Payment Schedule
- Annex-7: Bank Guarantee for Performance Security
- Annex-8: Fortnightly Time Report.

### **3 Guidance Note on Conflict of Interest**

### **4 Appendices**

#### **Appendix-I: Technical Proposal**

- Form 1: Letter of Proposal
- Form 2: Particulars of the Applicant
- Form 3: Statement of Legal Capacity
- Form 4: Power of Attorney
- Form 5: Financial Capacity of the Applicant
- Form 6: Particulars of Key Personnel
- Form 7: Abstract of Eligible Assignments of the Applicant
- Form 7A: Abstract of other relevant experience of the Applicant
- Form 8: Abstract of Eligible Assignments of Key Personnel
- Form 8A: Abstract of other relevant experience of Key Personnel
- Form 9: Eligible Assignments of Applicant
- Form 9A: Other relevant assignments of Applicant
- Form 10: Eligible Assignments of Key Personnel
- Form 10A: Other relevant assignments of Key Personnel
- Form 11: CVs of Professional Personnel (including photograph of the personnel)
- Form 12: Proposal for Sub-consultant(s)

## **Appendix –II: Financial Proposal**

Form 1: Covering Letter

Form 2: Financial Proposal

Form 3: Estimate of Personnel Costs

### **2.10 Clarifications**

**2.10.1** Applicants requiring any clarification on the RFP may send their queries to the Authority 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" The Authority shall endeavor to respond to the queries within, the period specified therein but not later than 7 (seven) days prior to the PDD. The responses will be sent by fax or e-mail. The Authority will post the reply to all such queries on the Official Website and copies thereof will also be circulated to all Applicants who have purchased the RFP document without identifying the source of queries.

**2.10.2** The Authority reserves the right to 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 Authority 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 Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFP document by the issuance of Addendum/ Amendment and posting it on the Official Website and by conveying the same to the prospective Applicants (who have purchased the RFP document) by 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 provide the Applicants a reasonable time for taking an amendment into account, or for any other reason, the Authority may, in its sole discretion, extend the PDD.

## **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.

## **2.13 Format and signing of Proposal**

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

**2.13.2** 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 1 (one) copy 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 ink and signed by the authorized signatory of the Applicant who shall initial each page. In case of printed and published Documents, only the cover shall be initialed. All the alterations, omissions, additions, or any other amendments made to the Proposal shall be initialed by the person(s) signing the Proposal. The Proposals must be properly signed by the authorized representative (the "**Authorized 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 authorized person holding the Power of Attorney, in case of a Limited Company or a corporation; or
- d) by the authorized representative of the Lead Member, in case of consortium.

A copy of the Power of Attorney certified by a notary public in the form specified in Appendix-I (Form-4) shall accompany the Proposal (if required).

**2.13.4** Applicants should note the PDD, 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 Authority, and that evaluation will be carried out only on the basis of Documents received by the closing time of PDD 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.

## **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) All forms are submitted in the prescribed formats and signed by the prescribed signatories;
- b) Power of attorney, if applicable, is executed as per Applicable Laws

- c) CVs of all Key Personnel have been included;
- d) Key Personnel have been proposed only if they meet the Conditions of Eligibility laid down at Clause 2.2.2 (D) of the RFP;
- e) No alternative proposal for any Key Personnel is being made and only one CV for each position has been furnished;
- f) The CVs have been recently signed and dated by the respective Personnel and countersigned by the Applicant. Photocopy or unsigned / countersigned CVs shall be rejected;
- g) The CVs shall contain an undertaking from the respective Key Personnel about his/her availability for the duration specified in the RFP;
- h) Key Personnel proposed have good working knowledge of English language;
- i) Key Personnel would be available for the period indicated in the TOR locally i.e. at Puducherry.
- j) No Key Personnel should have attained the age of 65 years at the time of submitting the proposal or during the Currency of the contract if awarded, and
- k) 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 averment regarding his qualification, experience or other particulars, he shall be liable to be debarred for any future assignment of the Authority for a period of 3 (three) years. The award of this Consultancy to the Applicant may also be liable to cancellation in such an event.

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

**2.14.6** The proposed team shall include experts and specialists in their respective areas of expertise and managerial/support staff (the "Support Personnel") such that the Consultant should be able to complete the Consultancy within the specified time schedule. The Key Personnel specified in Clause 2.1.4 shall be included in the proposed team of Professional Personnel. The team shall comprise other competent and experienced professional personnel in the relevant areas of expertise (where applicable) as required for successful completion of this Consultancy. The CV of each such professional personnel, if any, should also be submitted in the format at Form-11 of Appendix-I.

**2.14.7** An Applicant may, from time to time, if it considers necessary, propose suitable Sub-Consultants in specific areas of expertise (where applicable). Credentials of such firms should be submitted by the Applicant in Form-12 of Appendix-I. A Sub-Consultant, however, shall not be a substitute for any Key Personnel.

**2.14.8** The Authority reserves the right to verify all statements, information and documents, submitted by the Applicant in response to the RFP. Any such verification or the lack of such verification by the Authority to undertake such verification shall not relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority there

under.

**2.14.9** 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 Consultant either by issue of the LOA or entering into an Agreement, and if the Selected Applicant has already been issued the LOA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority without the Authority being liable in any manner whatsoever to the Selected Applicant or Consultant, as the case may be.

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

## **2.15 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 Consultancy (Item [H] of Form-2 of Appendix II) in both figures and words, in Indian Rupees, and signed by the Applicant's Authorized 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:

- a) All the costs associated with the assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the Personnel (Expatriate and Resident, in the field, office etc), accommodation, air fare, equipment, printing of documents, etc. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption, and shall be final and binding. **In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non- responsive and liable to be rejected.**
- b) 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.
- c) Costs (including break down of costs) shall be expressed in INR.

**2.15.3** In case of tie between the bidders in the lowest lump sum fees (L1) quoted i.e. the lowest lump sum fees quoted by more than one bidder are the same, Hotel Pondicherry Ashok will

break the tie by inviting fresh Financial bids from such bidders who are so tied. The new Financial Bid submitted by such tied Bidders shall not be more than their respective original Financial Bid. The original Financial Bids of such tied Bidders will be annulled only when the new Financial Bids are received from the respective Bidders. The bidder quoting the lowest lump sum Fees (which shall not be more than the lump sum Fees quoted in the original Financial Bid resulting in the tie) will be selected as the Preferred Bidder. Hotel Pondicherry Ashok will issue the Letter of Award to the Preferred Bidder.

**2.15.4 The Authority** shall be entitled to cancel the Letter of Award issued to the Preferred Bidder and at its sole discretion invite the remaining other Preferred Bidders in the order of preference (ranked lowest to highest, as per their respective Financial Bids) for preparing the techno feasibility study, provided such Bidder agrees to match the Financial Bid of the L1 Preferred Bidder and comply with such conditions as may be imposed by Hotel Pondicherry Ashok, if the Preferred Bidder-

- Withdraws his Bid during the period of validity of his Bid;
- Fails or refuses to comply with the stipulations in the Letter of Award
- Fails or refuses to execute the Agreement within the stipulated time;
- Fails or refuses to furnish the Performance Security
- Commits a material breach of any of the terms and conditions contained in the RFP Document.

## **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 initialed by the Authorized Representative of the Applicant as per the terms of this RFP. In case the proposal is submitted on the document down loaded from Official Website, the Applicant shall be responsible for its accuracy and correctness as per the version uploaded by the Authority and shall ensure that there are no changes caused in the content of the downloaded document. In case of any discrepancy between the downloaded or photocopied version of the RFP and the original RFP issued by the Authority, the later shall prevail.

**2.16.2** The Proposal will be sealed in an outer envelope which will bear the address of the Authority, RFP Notice number, Consultancy name as indicated at Clause 1.11.1. and 1.11.2 and the name and address of the Applicant. It shall bear on top, the following:

"Do not open, except in presence of the Authorized Person of the Authority"

If the envelope is not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Proposal submitted and consequent losses, if any, suffered by the Applicant.

**2.16.3** The aforesaid outer envelope will contain two separate sealed envelopes; one clearly marked

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`**Technical Proposal**' and the other clearly marked `**Financial Proposal**'. The envelope marked "**Technical Proposal**" shall contain the Application in the prescribed format (Form 1 of Appendix-I) along with Forms 2 to 12 of Appendix-I and supporting documents.

The envelope marked "**Financial Proposal**" shall contain the financial proposal in the prescribed format (Forms- 1, 2 & 3 of Appendix-II).

**2.16.4** The Technical Proposal and Financial Proposal shall be typed or written in ink and signed by the Authorized Representative of the Applicant. All pages of the original Technical Proposal and Financial Proposal must be numbered and initialed by the person or persons signing the Proposal.

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

**2.16.6** 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, firm profiles, 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 discharge of all obligations of the Consultant under the Agreement.

## **2.17 Proposal Due Date**

**2.17.1** Proposal should be submitted before **time on the** PDD specified at Clause 1.8 at the address provided in Clause 1.10 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 Authority may, in its sole discretion, extend the PDD by issuing an Addendum in accordance with Clause 2.11 uniformly for all Applicants.

## **2.18 Late Proposals**

Proposals received by the Authority after the specified time on PDD 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 Authority prior to PDD. No Proposal shall be modified, substituted, or withdrawn by the Applicant on or after the PDD.

**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 PDD, unless the same has been expressly sought for by the Authority, shall be disregarded.

## **2.20 Bid Security**

A Bid Security for an amount of Rs.1,00,000/- (Rupees One lakh only) in the form of a crossed Demand Draft payable at Puducherry drawn in favour of " Hotel Pondicherry Ashok" from any Scheduled Bank shall be submitted along with the Original Proposal. Those proposals not accompanied by Bid Security will be treated as Non responsive and such proposals will be rejected. Bid Security of the Preferred Bidder will be returned after the Performance Security is obtained and the agreement is signed. The Bid Security of the unsuccessful bidders will be returned within two weeks of completion of the selection process. PAHCL is entitled to cause forfeiture of the **BID Security** if the Bidder revokes / withdraws the Bid during the period of its validity and / or fails to comply with the conditions of the Letter of Award.

## **2.21 Performance Security**

**2.21.1** Within five days of the date of the Letter of Award from PAHCL and prior to execution of the Agreement, the Preferred Bidder shall furnish to PAHCL a **Performance Security** in the form of an irrevocable Bank Guarantee from any Scheduled Bank, in favour of "HOTEL PONDICHERRY ASHOK" enforceable and en-cashable in Puducherry for an amount equivalent to 5% of awarded lump sum fees as quoted by the consultant in the Financial Proposal as per the **Annexure VII**. Failure to submit the Performance Security will be taken as a ground for rejection of the bidder. Performance Security will remain in force until the satisfactory completion of the award of contract.

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

- a) If an Applicant engages in any of the Prohibited Practices specified in Clause 4.1 of this RFP;
- b) If the Applicant is found to have a Conflict of Interest as specified in Clause 2.3; and
- c) If the selected Applicant commits a breach of the Agreement.

## **D. EVALUATION PROCESS**

### **2.22 Evaluation of Proposals**

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- 2.22.1** From the time bids are opened to the time the contract is awarded, if any consultant wishes to contact PAHCL on any matter related to its proposal, it should do so in writing at the address indicated in the Data Sheet. Any effort by the firm to influence PAHCL/PIPDIC/ITDC in PAHCL's proposal evaluation, proposal comparison or contract award decisions, shall result in the rejection of the consultant's proposal.
- 2.22.2** Evaluators of Technical Proposals shall have no access to the Financial Proposals until the technical evaluation is concluded.
- 2.22.3** The Authority shall open the Proposals **at the time and date 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.
- 2.22.4** Proposals for which a notice of withdrawal has been submitted in accordance with Clause 2.19 shall not be opened.
- 2.22.5** Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP. A Proposal shall be considered responsive only if:
- a) the Technical Proposal is received in the form specified at Appendix-I.
  - b) it is received by the PDD including any extension thereof pursuant to Clause 2.17.
  - c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clauses 2.13 and 2.16.
  - d) it is accompanied by the Power of Attorney as specified in Clause 2.2.4.
  - e) it contains all the information (complete in all respects) as requested in the RFP.
  - f) it does not contain any condition or qualification, and
  - g) it is not non-responsive in terms hereof.
- 2.22.6** The Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Proposals.
- 2.22.7** The Authority 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.
- 2.22.8** After the technical evaluation, the Authority shall prepare a list of pre-qualified 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 Applicants along with their Technical Scores will be read out. The opening of Financial

Proposals shall be done in presence of respective representative(s) of Applicants who choose to be present. The Authority 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.

**2.22.9** Applicants are advised that Selection shall be entirely at the discretion of the Authority. Applicants shall be deemed to have understood and agreed that the Authority shall not be required to provide any explanation or justification in respect of any aspect of the Selection Process or Selection.

**2.22.10** Any information contained in the Proposal shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the Consultancy is subsequently awarded to it.

### **2.23 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 Authority in relation to matters arising out of, or concerning the Selection Process. The Authority shall treat all information, submitted as part of the Proposal, in confidence and shall require all those who have access to such material to treat the same in confidence. The Authority may not divulge any such information unless it is directed to do so by any statutory entity that has the power under law to require its disclosure or to enforce or assert any right or privilege of the statutory entity and/or the Authority or as may be required by law or in connection with any legal process.

### **2.24 Clarifications**

**2.24.1** To facilitate evaluation of Proposals, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Proposal. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

**2.24.2** 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 Authority may proceed to evaluate the Proposal by construing the particulars requiring clarification to the best of its understanding and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

## **E. APPOINTMENT OF CONSULTANT**

### **2.25 Negotiations**

**2.25.1** The first ranked Applicant (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 Consultant 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 Authority. In case the Selected Applicant fails to reconfirm its commitment, the Authority reserves the right to designate the next ranked Applicant as the Selected Applicant and invite it for negotiations.

**2.25.2** The Authority will examine the CVs of all other Professional Personnel and those not found suitable shall be replaced by the Applicant to the satisfaction of the Authority.

**2.25.3** The Authority will examine the credentials of all Sub-Consultants/ Consortium Members proposed for this Consultancy and those not found suitable shall be replaced by the Selected Applicant to the satisfaction of the Authority.

## **2.26 Substitution of Key Personnel**

**2.26.1** The Authority will not normally consider any request of the Selected Applicant for substitution of the Financial Expert as the ranking of the Applicant is based on the evaluation of the Financial Expert and any change therein may upset the ranking. Substitution will, however, be permitted in exceptional circumstances if the Financial Expert is not available for reasons of any incapacity or due to health, subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority.

**2.26.2** The Authority expects the Key Personnel to be available during implementation of the Agreement. The Authority will not consider substitution of the 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 Authority.

**2.26.3** Notwithstanding Clauses 2.25.1 and 2.25.2, Applicants should specifically note that substitution of the Financial Expert will not normally be considered during the implementation of the Agreement and may lead to disqualification of the Applicant or termination of the Agreement. Applicants are expected to propose only such Financial Expert who will be in a position to commit the time required for and be available for delivering the Consultancy in accordance with the Key Dates specified herein and in the Agreement.

## **2.27 Indemnity**

The Consultant shall, subject to the provisions of the Agreement, indemnify the Authority, 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.

## **2.28 Award of Consultancy**

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

## **2.29 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.

## **2.30 Commencement of Assignment**

The Consultant shall commence the Consultancy **within seven days** of the date of the Agreement, or such other date as may be mutually agreed. If the Consultant fails to either sign the Agreement as specified in Clause 2.28 or commence the assignment as specified herein, the Authority may invite the second ranked Applicant for negotiations. In such an event, the LOA or the Agreement, as the case may be, may be cancelled /terminated.

## **2.31 Proprietary data**

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

## **3.0 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 in understanding of TOR, Proposed methodology & Work plan and the experience of Key Personnel/associated Consultants. Only those applicants whose Technical Proposals score 70 points or more out of 100 shall be ranked as per Score achieved by them, from highest to the lowest technical score. (ST)

**3.1.2** Each Key Personnel must score a minimum of 70% marks, except as provided herein.

**3.1.3** The scoring criteria to be applied for evaluation would be as follows,

A) Minimum no. of Eligible Assignments as specified in Clause 3.1.4 – 5 nos.

B) Minimum Value of each other relevant assignment – Rs 50 crore or USD 10 mn.  
and

Minimum Professional Fee – Rs 5.00 lakh or USD 25,000

**1. Experience of the Applicant – Total Marks - 50**

**2. Experience of Key Personnel – Total marks – 40**

**3. Approach and methodology – Total Marks – 10**

Item Code	Personnel	Marks	Criteria
1	Experience of the Applicant	50	<p>A. 30% of the maximum marks i.e. 15 marks shall be awarded for the number of Eligible Assignments undertaken by the Applicant for each Eligible Assignment above the eligibility criteria @ 3 marks per assignment.</p> <p>B. The remaining 70% i.e. 35 marks shall be awarded for the following:</p> <p>a. comparative size and quality of Eligible Assignments – Max. 20 marks</p> <p>b. other relevant assignments 10 marks in the following pattern:</p> <p>i) For minimum value of assignment – NIL.</p> <p>ii) For each assignment between Rs. 25 to 50 crore - 1 mark</p> <p>3 ) For each assignment between Rs. 50 – 75 crore – 2 marks</p> <p>4) For each assignment above Rs. 75 crore – 3 Marks.</p> <p>(For purpose of evaluation other</p>

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			<p>relevant assignments would be ranked on value basis within the prescribed ranges)</p> <p>(iii) Overall turnover, experience and capacity of the firm – 5 Marks</p>
2	Experience of the Key personnel	40	<p>a. 30% of the maximum marks for each Key Personnel shall be awarded for the number of Eligible Assignments the respective Key Personnel has worked.</p> <p>b. The remaining 70% shall be awarded for, (i) the comparative size and quality of Eligible Assignments; and quality of other relevant assignments.</p> <p>The criteria for scoring is given below:</p>
2(a)	Team Leader	10	<p>Should have worked as Infrastructure Team leader or head of a financial team for at least 5 (five) Eligible Assignments out of which 2 (two) assignments shall be on PPP projects;</p> <ul style="list-style-type: none"> <li>- No marks for 5 Eligible Assignments.</li> <li>- 2 Marks for each additional eligible assignment up to a maximum of 10 marks.</li> </ul>
2 (b)	Financial Consultant	10	<p>Should have worked as Financial Consultant for at least 5 (five) Eligible Assignments out of which at least two should have been on PPP projects;</p> <ul style="list-style-type: none"> <li>- No marks for 5 Eligible Assignments.</li> <li>- 2 Mark for each additional Eligible Assignment up to a maximum of 10 marks.</li> </ul>

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2(c)	Associate Technical Consultant – Architect	4	Should have worked as Technical Expert in at least 2 (two) Eligible Assignments in coastal zones; <ul style="list-style-type: none"><li>- No marks for 2 Eligible Assignments.</li><li>- 1 Mark for each additional Eligible Assignment up to a maximum of 4 mark.</li></ul>
2(d)	Associate Consultant – Legal	4	Should have worked as Legal Expert in at least 2 (two) PPP Eligible Assignments; <ul style="list-style-type: none"><li>- No marks for 2 Eligible Assignments.</li><li>- 1 Mark for each additional Eligible Assignment up to a maximum of 4 marks.</li></ul>
2(d)	Surveyor of Land	4	Should have experience in atleast 2 (two) Eligible Assignments of similar nature; <ul style="list-style-type: none"><li>- No marks for 5 Eligible Assignments.</li><li>- 1 Mark for each additional Eligible Assignment upto a maximum of 4 marks.</li></ul>
2(e)	Tourism analyst	4	Should have worked in at least 2 (two) Eligible Assignments related to hospitality/ tourism; <ul style="list-style-type: none"><li>- No marks for 5 Eligible Assignments.</li><li>- 1 Mark for each additional Eligible Assignment upto a maximum of 4 marks.</li></ul>
2(f)	Environmental Analyst	4	Should have worked in at least 2 (two) Eligible Assignments related to coastal zones, preferably in hospitality sector; <ul style="list-style-type: none"><li>- No marks for 5 Eligible Assignments.</li></ul>



For the purposes of satisfying the Conditions of Eligibility and for evaluating the Proposals under this RFP, Transaction Advisory / Consultancy assignments granted by the government, regulatory commission, tribunal, statutory authority or public sector entity in respect of preparation of revenue model and/or preparation of transaction / bid documents and other similar assignments in relation to the bidding process or' other transactions, as the case may be, shall be deemed as eligible assignments.

Provided that all Eligible Assignments relating to projects based on the same Model Concession Agreement and awarded by the same public entity shall be counted as one Eligible Assignment.

### **3.1.5 Other relevant assignments**

Assignments undertaken by the Applicant/ Key Personnel for private sector entities shall be considered for evaluation if: (a) the advisory/ consultancy services relate to an infrastructure project; (b) the estimated capital cost of the project exceeds Rs. 50 crore (Rupees fifty crore) in case of a project in India, and US \$ 25 million (US\$ twentyfive million) for projects elsewhere; and (c) the professional fee for the assignment was at least Rs. 5 lakh (Rupees five lakh) in case of a project in India, and US \$ 25,000 (US\$ twenty five thousand) for projects elsewhere.

### **3.2 Short-listing of Applicants**

Of the Applicants ranked as aforesaid, not more than **5 (five)** shall be pre-qualified and short-listed for financial evaluation in the second stage. However, if the number of such pre-qualified Applicants is less than 2 (two), the Authority may, in its sole discretion, pre-qualify the Applicant(s) whose Technical Score is less than the score specified in Clauses 3.1.1 and 3.1.2; provided that in such an event, the total number of pre-qualified and shortlisted Applicants shall not exceed 2 (two).

### **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) as specified in Clause 3.3.3.

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

**3.3.3** The Authority will determine whether the Financial Proposals are complete, unqualified and unconditional. The cost indicated in the Financial Proposal shall be deemed as final and reflecting the total cost of services. Omissions, if any, in costing any item shall not entitle the Consultant to be compensated and the liability to fulfill its obligations as per the TOR within the total quoted price shall be that of the Consultant. 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:

$$S_F=100 \times F_M/F$$

(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, Tw and Fw are weights assigned to Technical Proposal and Financial Proposal that shall be 0.7 and 0.3 respectively.

**3.4.2** The Selected Applicant shall be the Applicant having the highest combined score. The second highest Applicant shall be kept in reserve and may be invited in its discretion 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. In the event two or more proposals have the same scores in the final ranking, the proposal with the higher technical score should be ranked first.

### **4.0 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 Authority shall reject a Proposal without being liable in any manner whatsoever to the Applicant, if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the Prohibited Practices") in the Selection Process. In such an event, the Authority shall, without prejudice to its any other rights or remedies, forfeit and appropriate the Performance Security, if available, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter *alia*, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Applicant's Proposal.

**4.2** Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Agreement, if an Applicant or Consultant, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the LOA or the execution of the Agreement, such Applicant or Consultant shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Applicant or Consultant, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.

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

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- a) "**corrupt practice**" means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the LOA or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the 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 consultant/ adviser of the Authority in relation to any matter concerning the Project;
- b) "**fraudulent practice**" means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- c) "**coercive practice**" means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person's participation or action in the Selection Process;
- d) "**undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- e) "**restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

## **5.0 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 collected/ received the RFP document shall be allowed to participate in the Pre-Proposal Conference. A maximum of two representatives of each Applicant shall be allowed to participate on production of an authority letter from the Applicant.

**5.2** During the course of Pre-Proposal Conference, the Applicants will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavor 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.

## **6.0 MISCELLANEOUS**

- 6.1** The Selection Process shall, be governed by, and construed in accordance with, the laws of India and the Courts at Puducherry / Hon'ble High Court of Chennai" shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.
- 6.2** The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:
- a) Suspend and /or cancel the 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 Authority 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 Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and /or performance of any obligations hereunder, pursuant hereto and /or in connection 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 Authority or submitted by an Applicant shall remain or become, as the case may be, the property of the Authority. The Authority will not return any submissions made hereunder. Applicants are required to treat all such documents and information as strictly confidential.
- 6.5** The Authority reserves the right to make inquiries with any of the clients listed by the Applicants in their previous experience record.

**SCHEDULE – I**

**(See Clause 1.1.3)**

**CONSULTANCY  
FOR  
TRANSACTION ADVISORY SERVICES**

**Development of Tourism Zone for  
Hotel Pondicherry Ashok – A Unit Of PAHCL  
(Joint Venture Company of India Tourism Development Corporation  
Limited & Pondicherry Industrial Promotion Development &  
Investment Corporation Limited (PIPDIC) under Public Private  
Partnership (PPP) Mode at Kalapet Beach, Puducherry 605014**

**TERMS OF REFERENCE (TOR)**

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## Terms of Reference (TOR)

### **1.0 General**

**1.1** The Union Territory of Puducherry is constituted out of the four erstwhile French settlements with Pondicherry, Karaikal, Mahe and Yanam. Pondicherry is the Capital of this Union Territory. Pondicherry is on the east coast, about 162 kms south of Chennai ( previously known as Madras ) located on the Coromandel Coast of the Bay of Bengal.

Legendary home of various saints, freedom fighters, ancient trading settlement with Rome and Greece, once capital of French India, spiritual power house and the centre of a new emerging human consciousness and new ways of living have made Puducherry an excellent destination for tourism.

Influenced by East and West, Puducherry has unique handicrafts in leather, pottery, hand made paper, incense and antique colonial furniture giving Puducherry a unique shopping experience. Puducherry has a special ambience, not found anywhere else in India. It is a blend of spiritual aura, French colonial heritage, Tamil culture and the cosmopolitan flair of many nationalities in a small but varied town, a city of constant philosophical and cultural dialogue.

Puducherry is relatively well developed to meet the requirements of various classes of tourists. The inflow of foreign tourists and domestic tourist grew at an annual average of 8 & 10% respectively. Our aim is to increase the average stay of the tourist, while going in for value tourism rather than volume.

The domestic tourists to Puducherry are mainly spiritual tourists, business visitors, fun/leisure tourists, and the honeymooning couples. Besides their visits to Ashram, Auroville, Chunnambar or after attending to their other work, the domestic tourists spend just about a day or more in Puducherry. The town also attracts a large number of non-staying visitors/day visitors. Professionals and Corporate located in the southern half of India out to de stress during the weekend, students and youth making weekend visits to Puducherry, and groups from Chennai and other places traveling to Puducherry on the weekend.

Pondicherry is situated just 160 km fro Chennai – 2.5 hr drive along the scenic East Coast Road (ECR). Pondicherry is a major tourism Destination with tourists from all the hinterland flocking to it. Due to the major French Influence it also a magnet for a lot of foreign tourists and has a sizeable numbers of expatriates.

**Puducherry's strength, however, is also its weakness in terms of tourism potential: its quietness and serenity do not offer tourists enough to do. While treks and yoga appeal to some, others are looking for activity-filled days of recreation especially the children. Thus, to realize the aim of making tourism a major industry in the UT, it has to provide the tourist with more attractions to make it a stand alone destination.**

**(A) ABOUT THE LICENSOR(COMPANY)**

Hotel Pondicherry Ashok, today popularly known as the Ashok Beach Resort is situated on The ECR at Kalapet Beach – barely 12 Km from the fast growing Pondicherry city. This is prime property nestled between the busy ECR and the serene Bay of Bengal. Hotel Pondicherry is owned by Pondicherry Ashok Hotel Corporation Limited (PAHCL) - a joint venture property of ITDC (51%)- the pioneers of Tourism Development in the Country and PIPDIC (49%) – the aggressive and Forward looking Industrial development and promotion Corporation of Pondicherry actively engaged in developing SEZ. Very soon Pondicherry would boast of its own Port. Industry and Tourism are the backbone of Pondicherry growth. Such is the changing kaleidoscope of the city that there is always something new very time you visit

The strategic location of the Hotel,– on the ECR road and just before you touch the bustling and crowded city is an ideal location for any tourism destination which would constitute several synergetic components. The large acreage ensure good visibility, accessibility and adequate parking for any amount of tourists – the most sought after components for a developer/ investor.

**1.2 CONNECTIVITY**

On the East Coast Road (ECR) the Hotel is situated just 12 km from the main City. Almost all the Vehicles entering Pondicherry comes in through this road.

**1.3 Existing Developments/Facilities**

Out of the available 60 acres 5 acres has already been developed by PAHCL. Following are the facilities currently available on site:

S. No.	Element	Units	Capacity	Status
1.	Luxury Cottages	2		Operational
2.	Suite	1		Operational
3	Boutique Room	3		Operational

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4	Deluxe Room	17		Operational
5	Multi Cuisine Restaurant	1	55	Operational
6	Open Air Coffee Shop	14		Operational
7	Banquet Hall (Dupliex Hall)	1	150	Operational
8	Board room	1	22	Operational
9	Childrens Area			Operational
10	Lawn tennis Court	1		Operational
11	Volleyball Court	1		Operational
12	Royale Lawn	1	500	Operational
13	Serenity Lawn	1	300	Operational
14	Mini Golf Course			Under Const
15	Swimming Pool		100	Under Const

The resort has an average occupancy rate of around 40% during weekdays and 80% on weekends. The rooms are designed with spacious bedrooms along with in -suit facilities, ocean view , Balconies on the first Floor and sit out areas with private landscaped gardens on the ground floor level.

#### 1.4 Present Footfalls to Pondicherry

The majority of the visitors arriving to Pondicherry are from Chennai, Bangalore and surrounding urban areas. There are also a lot of tourists from Northern and Eastern India with a lot of foreigners.

From the analysis of transit traffic conducted by TAFSIL in 2001, it is concluded that at least 1,00,000 persons pass through the city each day and probably 2% visit the city as day tourists. This indicate a large potential for Puducherry and a large percentage of potential tourists, mainly from Southern hinterland are not stopping over at Puducherry, probably for want of adequate tourism attractions and requisite facilities/infrastructure. This was be given a growth rate of 5% per annum half the tourist growth rate. Therefore, approximately the present transit traffic will be 1,72,000. Keeping this survey as minimum patronage from the transit traffic enroute on the east coast highway and the newly developed NH, a nominal patronage level representing 2% of the estimated volume of transit traffic has been considered i.e.3,440 per day--- **(B)**

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The estimated tourist traffic per day to Puducherry from both the segments will be 6509 (3,069 + 3,440).

Estimated tourist per day 3,069 **(A)**

Estimated day tourist 3,440 **(B)**

S. No	Type of visitor	Facility Reqd (Anticipated)
<b><u>WEEKDAY (MON- THURS)</u></b>		
	i. Business	Accommodation, Conference, restaurant, Evening Getaway, Shopping – handicraft/ traditional/
	ii. Residents of the City	Amusement, shopping, Relaxation , dining
<b><u>WEEK END (FRI – SUN)</u></b>		
	i. Mice segment	Accommodation, Conference, restaurant, Evening Getaway, Shopping – handicraft/ traditional/
	ii. Bussiness	Accommodation, Conference, restaurant, Evening Getaway, Shopping – handicraft/ traditional/
	iii. Leisure	Accommodation, Restaurant, Evening Getaway, Shopping – handicraft/ traditional/
	iv. Honeymoon	Accommodation, Restaurant, Evening Getaway, Shopping – handicraft/ traditional/ Amusement

Pondicherry Ashok Hotel Corporation Limited (PAHCL) – a joint venture of ITDC and PIPDIC - intends to develop surplus utilizable area of approximately 45 Acres as an Tourism Zone on Public Private Partnership (PPP) basis.

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The Proposed project shall be developed as an Integrated Project with the Project Components of MICE (Meetings, Incentives, Conferences and Exhibitions), Leisure and Wellness Tourism.

PAHCL would be inviting sealed Bids **for each component / all** based on the Detailed Project Reports and tender documents prepared by the Project Consultant appointed by the Company and approved by the Board of Directors of PAHCL. Each/ All the components would be licensed out on a Develop, Built Operate and Transfer Basis (DBOT Basis) to developer/investor (developers/investors).

- 1.02** PAHCL propose to develop Tourism Zone in the extent of 45 acres land and proposes to procure Transaction Advisory Consultants by inviting global tenders.
- 1.03** The scope of the Transaction Advisory Consultant will be to prepare feasibility and viability study by running suitable financial model and procure the bidder. While preparing the DPR the supporting social infrastructure and other environmental features as per the standard guidelines and specifications also needs to be provided This assignment is to identify, examine and evaluate the potential and thereby ascertain the various possibilities of such development.
- 1.04** Prepare conceptual designs with reference to requirements given and prepare rough estimate of cost on area basis for appraising of the Project, developing a revenue model and preparing bid documents for the Project (collectively the "Consultancy"). The Terms of Reference (the "TOR") and the scope of the Consultancy for this assignment are specified below.
- 1.05** The feasibility of adopting Annuity based PPP model for procurement of bidders may also be examined.
- 1.06** The Consultant shall be guided by the basic principle outlined in the Model Concession Agreement [MCA] of Govt. of India together with other appropriate reference documents in its assignment to arrive at the Principles of Development Agreement and the Principles of Design, Finance, Build, Operate and Transfer (DFBOT) together with the Manual of Specifications and Standards for Development through Public-Private Partnership for Infrastructure Project.
- 1.07** The Consultant shall be responsible for preparing the relevant Schedules of the Concession Agreement and for bringing out any special feature or requirement of the Project referred to in the Concession Agreement or the Manual.
- 1.08** The Consultant shall assist the Authority and its Technical Consultant and the Legal Adviser by furnishing clarifications as required for the structuring, documentation and award of the Project.
- 1.09** The Consultant shall also participate in the pre-bid conferences with the Bidders of the Project and assist the Authority in clarifying the financial aspects arising from the Bid Documents.

**1.10** The Consultant shall make available the Financial Expert and other Key Personnel to attend and participate in meetings, conferences and discussions with the Authority and shall otherwise advise on and assist the Authority in the diverse commercial issues that may arise from time to time.

**1.11** The details of existing land area (240 H 95 A 95C) in the proposed site are as follows.

Location	Extent of Land in Kalapet	
	Private Land	Proposed for Development
KALAPET BEACH PUDUCHERY	60 Acres	45 Acres

## **2.0 Objective**

The objective of this Consultancy (the "**Objective**") is to procure a bidder for development of the existing lands of PAHCL for establishing Tourism Zone. The transaction related advice, with corresponding Business/ Revenue models and to undertake a financial appraisal and assist in the bidding process and to award of the Project shall be in a manner which ensures:

- a) Participation by the best available companies-in the bidding process;
- b) Financing of the capital cost by the Concessionaire; and
- c) Optimizing the revenue potential of the Project.

### **3.0 Scope of Services**

#### **3.1** The scope of services shall include:

- i. To Suggest World class Tourism facilities in the proposed project sites and to have the maximum value derived through Public Private Partnership (PPP) mode and Annuity (PPP), both in quantitative and qualitative terms.
- ii. Evaluation of the strategic objectives of the Authority in relation to the Project and advising on the commercial and corporate structuring, especially with reference to Applicable Laws;
- iii. Conduct market studies to prepare feasibility reports based on current market trends and to explore the potential of the sites for commercial development.
- iv. Prepare cost estimates for the project
- v. Collection, compilation and analysis of relevant financial data relating to all costs & revenues;
- vi. Review cost estimates contained in the Feasibility Report;
- vii. Project structuring with applicable laws and development of various possible alternatives for objectives fulfillment and revenue maximization with preparation of revenue model for the project and shall document the following parameters:
  - a. Total Project Costing
  - b. Total survey maps, project placement and project drawings.
  - c. Projected development fees to the company from each tourism component.
  - d. Equity & Debt Ratios
  - e. Statement of Income and Expenditure
  - f. The assumptions underlying the Income and Expenditure
  - g. Project Break-even Analysis
  - h. All profitability ratios and Financial Indicators
- viii. Shall identify the Project Risks with a Risk report and mechanism for its addressal.
- ix. Development of various possible alternatives for revenue maximization and preparation of revenue model for the project;
- x. Advising on tax-related issues arising out of the Project structuring;

- xi. Preparation of comprehensive project appraisal presentation to PAHCL. for review and approval. Shall modify the proposals as per the suggestions by PAHCL. for any revision.
- xii. Preparation of Bid Documents like EOI cum RFQ, RFP, Concession Agreement, for the project as per the standard bidding process for PPP Projects.
- xiii. Each of projects being suggested should have separate project report encompassing all the above points and any other points as felt required for successful implementation of the Project
- xiv. Assist the authority with suitable in-house competency or through association with technical and legal consultants in the review meeting of bidding process for selection of developer and up to signing of the Concession Agreement and also for selection of Independent Engineer by the selected Developer.
- xv. Completion of Services: All the deliverables shall be prepared, documented and submitted to the Authority in required number of copies (both hard and soft copies) for its review and approval by the Authority.
- xvi. In making its projections, recommendations and Reports, the Consultant shall identify the underlying assumptions and reach an agreement with the Authority in relation thereto.
- xvii. The services to be rendered by the Transaction Advisory Consultants are briefly explained hereunder:

## **3.2 Transaction Advisory Services**

### **3.2.1 (A) Transaction Adviser**

**3.2.1.1** The Consultant shall be responsible for review of all technical and financial parameters and examination of the viability of the Project. The Consultant will also render advisory services for conducting the bid process and will assist in the preparation of bidding documents and in conducting the bidding process for selection of the concessionaire for the project. The Consultant shall also maintain, update and disseminate the necessary data and information related to the Project and the bid process. During interaction with the bidders and stakeholders, the Consultant shall assist the Authority in responding to all queries satisfactorily and within the specified time. The Consultant shall render advisory services up to the signing of the Concession Agreement.

**3.2.1.2** The Transaction Advisory Services also need to include the following:

- i. Marketing Strategy Based on Product Mix.

- ii. Prepare Concession Agreement based on the principle of MCA for its applicability to this Project.

**3.2.1.3** While finalizing the EOI-cum-RFQ for Bidder, it will be preferable to ensure that the Bidder shall be associated with leading Infrastructure Firm and submit a proposal which shall give state-of-the-art Infrastructure facilities along with its long term maintenance strategy. The bidder shall be evaluated based on:

- i. Key Strength of Bidder.
- ii. Financial, Technical, and Marketing Capability of the Bidder.
- iii. Concept Plans and Designs of Bidders.
- iv. Indicative Development Plan along with Key facilities and amenities proposed, supported by Positioning Strategy, Phasing Strategy and Pricing Strategy.
- v. Other unique Features that the bidder would like to highlight.

**3.2.1.4** The Consultant shall suggest the Evaluation Criterion and a transparent marking system for the Evaluation Committee to approve the soundness of the Proposals, which may be evaluated by both Technical Evaluation Committee and a High Powered Committee.

**3.2.1.5** The Perception Analysis of Developers covering all the Risks and the Pricing & Financial Viability of the Project along with Risk & Sensitivity Analysis, Development Plan and Phasing, Operating Mechanism & Business Model Options may be documented for the benefit of the client.

**3.2.1.6** The In-house Financial Model, that the consultant prepares shall invariably take into account the basic objective of providing Quality Infrastructure facilities at no cost to the Government and shall give the following:

- i. Total Project Costing.
- ii. Equity & Debt Ratios.
- iii. Statement of Income and Expenditure.
- iv. The assumptions underlying the Income and Expenditure.
- v. Project Break-even Analysis.
- vi. All profitability ratios and Financial indicators.

**3.2.1.7** The Consultant shall prepare Concept Plan, Development plan and then accordingly prepare Business Plan that shall give the output in the form of an appropriate components to be created such as Processing Area (PA) and Non-Processing Area (NPA) in accordance with the SEZ Rules of the Central Government, Phases of Development, Financing Plan with Project Cost and estimates with the Means of Financing and assess the cash flow requirement of Bidders and arrive at stringent documentations. Consultant may suggest the

format of Comfort Letters / details to be obtained from Banks/ Financial Institutions for financing the debt requirement, equity commitment letters etc.

**3.2.1.8** While working out on the Project Cost & Revenue Options for a viable model Cross Subsidization should not be considered.

- i. The Consultant shall ensure that the Marketing Plan to be synchronized with the Development plan to give maximum benefit to the Authority.
- ii. The consultant shall suggest the Clientele to be targeted in its report. The Consultant shall also prepare an approach to be adopted to market the project as a concept to potential Bidders/ Developers.
- iii. The Consultant shall suggest the Strategy to be adopted to market the Project Effectively. The Pricing Strategy to be part of the above document.

### **3.3 Collection and analysis of Data**

**3.3.1** The Consultant shall collect, compile and analyze the financial and commercial data relating to the Project and prepare a Revenue and Expenditure statement on the proposed Project Components based on commercial accounting principles of similar existing projects for three financial years preceding this consultancy.

**3.3.2** The consultant shall conduct Demand Assessment Studies for Tourism oriented products Sector. They shall study the market trend and supply & demand position of such products and their viability.

**3.3.3** The Consultant shall also study of upcoming developments in the Catchment Analysis to establish existing demand and future demand.

**3.3.4** The Consultant shall fix up realistic mechanism for bidding company /consortium to raise the funds required

### **3.4 Review of costs**

Feasibility Report, along with the Specification Manual, the Concession Agreement will indicate the nature and extent of infrastructure, facilities and services to be provided by the Concessionaire with comment on the cost estimates contained in the Feasibility Report.

### **3.5 Estimation of revenues**

**3.5.1** The consultant shall suggest Quality Infrastructure Facilities which will be Market Driven and the Bidders may have the option to make changes in it as per their own assessment.

**3.5.2** The Consultant shall carry out market surveys to prepare a reasonable estimation of the likely revenue streams of the concessionaire likely to be collected from the Project and from other sources of revenue, if any. It shall propose various options for optimizing such revenues.

### **3.6 Prepare Concession Agreement (Draft & Final)**

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The Consultant shall prepare the draft Concession agreement (CA) to be provided to the Developer/ Bidder at the time of bidding and take into account the revisions of MCA, if any, while drafting this Concession Agreement. The Draft Agreement shall be presented to PAHCL, Technical and High Level Committee for their concurrence for issuing to bidder

### **3.7 Impact of Project on Government Resources**

The Consultant shall also identify and quantify the estimated financial impact of the Project if any on the resources of PAHCL.

### **3.8 Development of Revenue Model**

The Consultant shall identify and quantify all costs and expenses and revenues of the Project and shall prepare cash-flow statements for the concession period. Based on the above, the Consultant shall prepare the Revenue Model which will indicate the possible capital structure, likely sources of financing, the costs of financing, the Cash Flow, Debt Service, Return on Investment etc. (the "Revenue Model"). This would also include sensitivity analysis in relation to the critical parameters of the Revenue Model.

### **3.9 Tax and insurance-related Matters**

During the course of the Consultancy, the Consultant may be called upon to advice on tax and insurance related issues affecting the Project.

### **3.10 Project Report**

**3.10.1** The consultant shall ascertain Client's requirements, examine site constraints & potential and prepare a design brief for Client's approval.

- a) Based on the approved parameters, the draft Bid documents as well as the Revenue Model, the TA consultant shall prepare a Detailed Project Report (DPR) for the Project outlining the salient features of the Project, its social and economic benefits and its financial viability.
- b) Based on the DPR the Government may take a decision for calling of the Bids for the Project / or for the revision of DPR.

### **3.11 Assistance in the RFQ process**

The Consultant shall prepare the RFQ document for project-specific purposes based on the Govt of India Model RFQ document and other relevant documents for pre-qualification process.

### **3.12 Preparation of Bid Documents**

**3.12.1** The Consultant shall assist in preparing the Request for Proposal and prepare draft Concession Agreement based on the Model RFP. For this purpose, he shall work closely with the Authority and its legal advisers and technical consultants. Bid documents would include the draft Concession Agreement and the Feasibility Report. Bids to be submitted by the bidders shall be based on the aforesaid bid documents.

**3.12.2** The Legal consultants shall draft contracts, concessions, lease agreements and licenses and provide advice on the prequalification process, evaluation of bids and execution of contracts.

**3.12.3** Consultant shall clearly explain to the Project authorities the implications of contract terms and contingent liabilities, if any.

**3.12.4** In cases where standard documents are to be applied, such as Model RFQ, RFP and MCA, the role of legal consultants should largely be confined to adopting these documents to project-specific situations and for providing legal counsel in the course of bid process and award, including execution of the agreement and its coming into effect.

**3.12.5** Monitor the work of Legal Expert in the preparation of documents for clearances on legal matters, dealing with claims/variations and preparation of TOR for legal covenants etc.

### **3.13 Assistance in the Bid Process**

**3.13.1** The Consultant shall assist the Authority in the bid process for selection of the Concessionaire from among the Bidders and till the signing of the Concession Agreement. This will primarily relate to participation in pre-bid meetings and answering questions or issuing clarifications with the approval of the Authority. The Consultant shall also assist the Authority in engaging with the bidders on different aspects of the Project such as its assets, the process of the transaction, the Revenue Model and the structure of the Project. It will also assist the Authority in preparing internal notes and projections for securing governmental approvals, if any.

**3.13.2** Beyond the 32 weeks from the Effective Date, these services may be in the nature of intermittent services required till the Completion of Services. Costs of Services till the 110 weeks from the Effective Date are to be included in the Financial Proposal whereas payment for Services beyond 32 weeks shall form part of Lump sum payment to be made as specified in Clauses; 10.1 and 10.2.

### **3.14 Assistance in selection of the preferred Bidder**

The Authority intends to select the preferred bidder on the basis of the Proposals received from pre-qualified bidders. Technical and financial proposals will be invited as part of the Bidding Process. The Consultant shall also assist the Authority in evaluating the Technical Proposal for its acceptance before the financial proposals are opened. The Consultant shall assist in engaging with the selected bidder till execution of the Concession Agreement.

### **3.15 Rendering advisory services**

The Consultant shall provide such other advice and assistance as may be necessary and incidental to the Services and as may be requested by the Authority in respect of the Project, including but not limited to attending meetings, conferences and discussions with the Authority and shall otherwise advise on and assist the Authority in the diverse commercial issues that may arise from time to time. The Consultant shall be responsible primarily for

providing advice relating to financial issues arising from or during the course of the bidding process and the documents relating thereto.

### **3.16 Specific Requirements for the Project**

The Consultant needs to associate with a Leading Infrastructure Firm of repute as detailed in the Qualification Criterion mentioned.

### **3.17 Scope not exhaustive**

The Scope of Services specified in this Clause 3 are not exhaustive and the Consultant shall undertake such other tasks as may be necessary to appraise the project financially, prepare the Revenue Model and successfully complete the bid process for the Project.

## **4.0 Deliverables**

**4.1** In pursuance of this TOR, the Consultant shall undertake /deliver the following deliverables (the "**Deliverables**") during the course of this Consultancy. Each deliverable shall include an executive summary, analysis, assumptions, results of computations, tables, charts, recommendations, and such other contents that generally comprise deliverables for similar consultancy work by way of best practices. **30 hard copies and 5 soft copies** of all the Reports mentioned herein below shall be submitted to the Authority. The deliverables shall include:

### **4.1.1 Inception Report**

On commencement of the Consultancy, the Consultant shall prepare and submit an Inception Report (the "**Inception Report**"). The Inception Report shall be a further elaboration of the Consultant's submission towards understanding of the RFP, the methodology to be followed and Work Plan for the development of project objectives and deliverables in accordance with the Project Quality Procedure of Reporting.

### **4.1.2 Revenue Model (Refer Clause 3.8)**

### **4.1.3 Project Report (Refer Clause 3.10)**

### **4.1.4 Assistance in preparation of RFQ, RFP and Concession Agreement (Refer Clauses 3.11 & 3.12).**

### **4.1.5 Assistance in Bidding Process (Refer Clause 3.13)**

## **5.0 Milestone Payment Schedule**

Subject to the provisions of Clause 10.1 of the TOR, the total duration for preparation of the Revenue Model, Appraisal Report and bid documents shall be **12** weeks, excluding the time taken by the Authority in providing the requisite documents or in conveying its comments on the Draft Reports. The Consultant shall deploy the Key Personnel as per the deployment of Personnel proposed.

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**5.2** The schedule for completing the Deliverables shall be determined by the maximum number of days/ weeks from the Effective Date of the Agreement (the "**Key Dates**" or "KD"). Time schedule for important Deliverables of the Consultancy and the payment schedule linked to the specified Deliverables are given below:

<b>Sl. No</b>	<b>Reports</b>	<b>Particulars</b>	<b>Period in Week</b>	<b>Payments</b>
1	Inception Report including Independent Report designs, distinct matrix of Processing Zone and Non Processing Zone.	The report shall enumerate the initial findings, detailed planning of project activities and the tentative cost of Project and the potential and demand for the Project. It shall also describe the methodologies followed for the development of project objectives and deliverables in accordance with the Project Quality Procedure of Reporting.	1	10%
2	Market Survey Report with details of demand	The report shall analyze the potential for development of SEZ Methodology to be adopted for the demand for the Project indicating the BEST USE Option Study.	1	05%
3	Legal Due Diligence Report	The Report shall address the Title Related Issues with Due Diligence for developing the Project on PPP Model. The report shall evolve business strategies in the development of project components concluding project costing and recovery of investment. The report shall conclude detailed financial model depicting the standard financial review parameters like project IRR, Equity IRR, DSCR and Sensitivity analysis with the assumption of anticipated risks.	1	05%
4	Draft Detailed Project Report and Presentation to Hotel Pondicherry Ashok	The financial plan shall be developed for the best option model. SWOT Analysis of Project without cross subsidization to be included with Tax, Insurance related Issues, Project	1	10%

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		Risk Report as to the Phasing Strategy, Positioning Strategy and the Clientele to be addressed with associated Risk. Bidders Perception of the Project and Impact of the Project on Government resources may also be covered.		
5	Final Detailed Project Report	The Project Appraisal Report and Presentation shall contain the recommendation for the suggested model duly explaining the salient features of the above mentioned reports. The Project Appraisal Report & Presentation is to be made to Govt. for its review & approval.	1	20%
<b>Total</b>			<b>5</b>	<b>50%</b>
The Actual Weeks consumed will be 15 only as some tasks can move parallel				
6	Pre-qualification document	Preparation of EOI cum RFQ document for the project and modify as per the review and approved by Authority.	2	05%
7	Evaluation Report on Pre-qualification of developers.	Evaluation of RFQ proposals and submission of evaluation report for review and approval by the Authority.	1	05%
8	RFP document along with draft concession agreement.	Submission of RFP documents to be given to short- listed developers and submission for review & approval by Authority.	2	05%
9	RFP evaluation	Evaluation of RFP proposals after conducting pre-bid conference and submission of evaluation report for review and approval by Authority, due diligence and Analysis of Bidders, Estimation of Revenues, their Financial Model, Revenue Model, and reasonableness of the assumptions made, Analysis of Marketing Strategy and Product Mix Design. Presentation on Evaluation of Bids to Project Review Committee and High power Committee for Approval.	2	05%
10	Final Report on bid process	Final report detailing the salient features of the bid process and	1	10%

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		Concession Agreement for approval by the Authority		
11	Independent Engineer	Preparation of RFQ & RFP and selection of Independent Engineer	1	---
12	Project Completion Report	Completion of Services of Bid Process including signing of Concession Agreement	1	20%
Total			10	50%
Grand Total			15	100%

\*\* The total time can be 12 weeks in view of several parallel tasks.

**5.3** Payment for the Services shall be based on deliverables and includes any expenses relating to travel for participating in the meetings and site visits or any additional cost.

**5.4** The maximum man days of Key persons/Associates in the product of the Deliverables shall be as specified below:

Deliverables	Description of Deliverables	Team Leader	Associate Consultant - Technical	Associate Consultant - Legal
		Weeks	Weeks	Weeks
1	Inception Report including Independent Report with concept designs & distinct matrix of Processing Zone and Non Processing Zone.	1	1	1
2	Market Survey Report with details of demand	1	--	1
3	Legal Due Diligence Report	1	--	1
4	Draft Detailed Project Report & Presentation to Hotel Pondicherry Ashok/GoP	1	1	--
5	Final Detailed Project Report	1	--	--
<b>BID PROCESSING</b>				

6	Pre-qualification document	1	--	1
7	Evaluation Report on Pre-qualification of developers.	1	--	1
8	RFP document along with draft concession agreement.	1	1	1
9	RFP evaluation	1	--	1
10	Final Report on bid process	1	1	1
11	Procurement of Independent Engineer	1	1	1
12	Project Completion Report	1	--	1
	Total	12	5	9
	Estimated Total (Weeks)			

**5.5** Payment shall be made in respect of each Deliverable upon completion.

**5.6** **20% (twenty per cent) of the Agreement Value has been earmarked as Final Payment to be made to the Consultant 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 Consultant, save and except the costs incurred for meeting its reimbursable expenses during the period after expiry of 32 weeks from the Effective Date, including travel and personnel costs at the agreed rates.

## **6.0 Meetings**

**6.1** The Authority may review/ get it audited by any party so desired with the Consultant, any or all of the documents and advice, forming part of the Consultancy, in meetings and conferences which will be held in **Puducherry** at the Authority's office.

Further, the Consultant may be required to attend meetings and conferences with pre-qualified bidders or the Selected Bidder.

**6.2** The Authority may, in its discretion, require the Consultant to participate in extended meetings and/ or work from the offices of the Authority and the Consultant shall, on a best endeavor basis and without unreasonable delay, provide such services at the offices of the Authority.

## **7.0 Consultancy Team**

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**7.1** The Consultant shall form a team (the "Consultancy Team") for undertaking this assignment. The Consultancy Team shall consist of experts who have the requisite qualifications and experience. Financial Expert shall be the leader of the Consultancy Team. The following Key Personnel whose experience and responsibilities are briefly described herein would be considered for evaluation of the Technical Proposal. Other expertise as required for the services to be rendered by the Consultant shall be included in the Team either through the Key Personnel specified below or through other Professional Personnel, as necessary.

<b>Team Leader-</b>	
Educational Qualifications	MBA / CA with 20 years of professional experience.
Essential Experience	The person shall have a Management Degree in Finance with a total of 20 years of experience out of which 10 years shall be in the relevant field in similar position. He must have 5 years managerial experience in the position of TL/Deputy TL in developing countries particularly in Asia. The candidate must have proven record as Team Leader/Deputy Team Leader for preparation and implementation of a large infrastructure project for about 5 years. International experience in the fields of Infrastructure Finance and PPP projects will be an added advantage. Maximum age limit is 65 years on the date of submission of proposal.
Job responsibilities	He will lead, co-ordinate and supervise the Consultancy in a timely manner as envisaged in this RFP. He shall not delegate his responsibilities except with the prior written approval of the Authority.
<b>Financial Consultant</b>	
Educational Qualification	MBA (Finance) or Chartered Accountant or Post Graduate in Commerce or Equivalent.
Essential Experience	5 years in financial analysis and modeling/ structuring of infrastructure projects, especially in PPP model.
Job Responsibilities	He/She will be responsible for financial analysis and Revenue modeling of the project and preparation of bid documents. Will assist the COMPANY during the selection of investor/ investors
<b>Associate Technical Consultant / Technical Consultant</b>	
Educational Experience	Degree in Civil engineering or Architecture with 15 years of professional experience.
Essential Experience	Technical consultant shall have a Degree in Civil Engineering with a total of 15 years of experience out of which 10 years shall be in similar

	field. The Incumbent shall have experience in large project concept preparations, Schematic& Utility services, Implementation Methodology, Resources mobilization schedules, Relocation planning, Project Contract Administration, Environmental Management Plan, Operation & Maintenance of facilities in large Infrastructure Projects.
Job Responsibilities	He will provide the sectoral perspective to the team. He will also review the cost estimates based on the Feasibility Report and the Concession Agreement.
<b>Associate Legal Consultant / Legal Expert</b>	
Educational Experience	Post Graduate Degree in Law with 15 years of professional experience.
Essential Experience	The candidate shall have Post Graduate Degree in Law with a total of 15 years experience. He shall have at least 8 years of experience in contractual and financial laws. He shall be fully familiar with the legal aspects of the country in contract management, Contract Litigations.
Job Responsibilities	Responsibilities include Preparation of TOR for legal covenants, assisting the client in legal matters before and after the construction etc.
<b>. Surveyor</b>	
Educational Experience	Degree/Diploma Civil Engineering or equivalent
Essential Experience	Minimum 3 years experience in surveys in infrastructure projects.
Job Responsibilities	He/She will be responsible for all kind of surveys i.e contour, topography, soil test and any other surveys/investigations required for the project.
<b>Tourism Analyst</b>	
Educational Experience	Graduate in Tourism or Commerce or Statistics or BBA or MBA
Essential Experience	Minimum 5 years experience in conducting sustainable tourism development projects, tourist traffic study, demand assessment for tourism projects.
Job Responsibilities	He/She will be responsible for preparation of Market Assessment including tourist traffic study, demand assessment for the project.
<b>Environment Analyst</b>	
Educational Experience	Doctorate or Post Graduate in Environmental Science or equivalent.
Essential Experience	Minimum 5 years experience in conducting environmental studies, EIA studies etc. Impact of the projects on the local habitat/populace
Job Responsibilities	He/She will be responsible for conducting environmental impact study including CRZ and sustainability and other regulations.

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**7.2** The Consultant shall mobilise and demobilise its Professional Personnel and Support Personnel with the concurrence of the Authority and shall maintain the time sheet/ attendance sheet of the working of all Personnel in the Project Office.

**8.0 Reporting**

**8.1** The Consultant shall electronically and by mail submit fortnightly time reports of each of the Key Personnel. Such time reports shall be submitted to the Authority on the 15<sup>th</sup> day and the last day of each calendar month by end of the business day and shall include the number of hours expended on the Project by the Consultant on each working day of the fortnight covered by the time report. The time reports shall also include a brief description of work performed during that fortnight by each of the Key Personnel.

**8.2** The Consultant will work closely with the Authority and its technical and legal consultants. The Authority will establish a Project Review Committee (PRC) to enable conduct of this assignment. A designated Officer of the Authority will be responsible for the overall coordination and project development. He will play a coordinating role in dissemination of the Consultant's outputs, facilitating discussions and ensuring required reactions and responses to the Consultant.

**8.3** The Project Review Committee (PRC) shall be chaired by Managing Director, PAHCL with the following Members:

**1. Sh. B.R.Babu**

**2. Sh. E. Vedagiri**

**3. Sh.M.J.S.Ashok**

**4. Sh. P.Mathew Samuel**

**5. Sh.N. Bacheketi**

**8.4** The Consultant may prepare Issue Papers highlighting issues that could become critical for the timely completion of the Project and that require attention from the Authority.

**8.5** The Consultant will make a presentation on the Inception Report for discussion with the PRC at a meeting. This will be a working document. The Consultant 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 Consultant's work on the TOR tasks should continue while the report is under consideration and is being discussed.

**8.6** Regular communication with the PRC and the Designated Officer is required in addition to all key communications. This may take the form of telephone/ teleconferencing, emails, faxes, and occasional meetings.

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

**9.0 Documents to be made available by the Authority.**

The Authority may provide to the Consultant the documentation / Maps/ Other details available with them for facilitating Quality Reporting.

**10.0 Completion of Services**

**10.1** All the Deliverables shall be compiled, classified and submitted by the Consultant to the Authority in soft form, to the extent possible. The documents comprising the Deliverables shall remain the property of the Authority and shall not be used by the Consultant for any purpose other than that intended under these Terms of Reference without the permission of the Authority. The Consultancy shall stand completed on acceptance by the Authority of all the Deliverables of the Consultant. Unless completed earlier, the Services shall be deemed completed and finally accepted by the Authority and the final Deliverable shall be deemed approved by the Authority as satisfactory upon expiry of 90 (Ninety) days after receipt of the final Deliverable unless the Authority, within such 90 (Ninety) day period, gives written notice to the Consultant specifying in detail, the deficiencies in the Services, the Consultant 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 Consultancy shall in any case be deemed to be completed upon expiry of 18 (**Eighteen**) **Months** from the Effective Date, unless extended by mutual consent of the Authority and the Consultant.

**10.2** 20% (twenty per cent) of the Agreement Value has been earmarked as lump sum payment to be made to the Consultant upon execution of the Concession Agreement (the "**Lump Sum Payment**"). In consideration of the Lump Sum Payment, the Consultant would provide such services as may be required by the Authority for concluding the Bid Process and execution of the Concession Agreement. In the event the Concession Agreement does not get executed within 18 (**Eighteen**) **Months** of the Effective Date, the Consultancy shall stand completed as specified in Clause 10.1 above, but no Lump Sum Payment shall be due to the Consultant.

**SCHEDULE -2**  
*See Clause 2.1.3)*

**AGREEMENT  
FOR  
Transaction Advisory Consultancy Services  
for Hotel Pondicherry Ashok – A unit of PAHCL – Ajoint Venture of ITDC and  
PIPDIC for  
development of Tourism Zone  
under PPP Mode at Kalapet Beach, Puducherry**

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**AGREEMENT  
FOR**

**Transaction Advisory Consultancy Services for  
for Hotel Pondicherry Ashok – A unit of PAHCL –**

**A joint Venture of Indian Tourism Development Corporation Limited (ITDC) and  
Pondicherry Industrial Promotion Development & Investment Corporation Limited  
(PIPDIC) for**

**Development of Tourism Zone**

**under PPP Mode at Kalapet Beach, Puducherry , UT of Puducherry**

**AGREEMENT No. -----**

This AGREEMENT (hereinafter called the "Agreement") is made on the ----- day of the month of -----2010 between \_\_\_\_\_ on the one hand, (hereinafter called the "Authority" which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand, ----- (hereinafter called the "**Consultant**" which expression shall include their respective successors and permitted assigns).

**WHEREAS**

(A) The Authority vide its Request for Proposal for appointment of Transaction Advisory Consultant (hereinafter called the "**Consultancy**") for “Development of Multi-Product Zone under Public Private Partnership mode at Kalapet Beach, Puducherry, UT of Puducherry (hereinafter called the “Project”)

(B) the Consultant submitted its proposals for the aforesaid work, whereby the Consultant represented to the Authority that it had the required professional skills, and in the said proposals the Consultant also agreed to provide the Services to the Authority on the terms and conditions as set forth in the RFP and this Agreement; and

(C) the Authority, on acceptance of the aforesaid proposals of the Consultant, awarded the Consultancy to the Consultant 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:

**1.0 General**

**1.1 Definitions and Interpretation**

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapet,  
UT of Puducherry under PPP Mode*

**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 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) "Expatriate Personnel" means such persons who at the time of being so hired had their domicile outside India;
- (j) "Government" means the **[PAHCL/ Government of Pudcherry]**;
- (k) "INR, Re., or Rs." means Indian Rupees;
- (l) "Member", in case the Consultant consists of a consortium of more than one entity, means any of these entities, and "Members" means all of these entities;
- (m) "Party" means the Authority or the Consultant, as the case may be and Parties means both of them;
- (n) "Personnel" means persons hired by the Consultant or by any Sub- Consultant as employees or retainers and assigned to the performance of the Services or any part thereof;
- (o) "Resident Personnel" means such persons who at the time of being so hired had their domicile inside India;
- (p) "RFP" means the Request for Proposal document in response to which the Consultant's proposal for providing Services was accepted;
- (q) "Services" means the work to be performed by the Consultant pursuant to this Agreement, as described in the Terms of Reference hereto;
- (r) "Sub-Consultant" means any entity to which the Consultant sub-contracts any part of the Services in accordance with the provisions of Clause 4.7; and
- (s) "Third party" means any person or entity other than the Government, the Authority, the Consultant or a Sub-Consultant.

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 part 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 Authority and the Consultant. The Consultant 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 Authority and the Consultant shall be as set forth in the Agreement, in particular:

- (a) the Consultant shall carry out the Services in accordance with the provisions of the Agreement; and
- (b) the Authority shall make payments to the Consultant 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 the courts at Puducherry and Chennai 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 Consultant, be given by facsimile or e-mail and by letter delivered by hand to the address given and marked for attention of the Consultant's Representative set out below in Clause 1.10 or to such other person as the Consultant may from time to time designate by notice to the Authority; 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 Consultant may from time to time designate by notice to the Authority;
- (b) in the case of the Authority, be given by facsimile or e-mail and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.10 or to such other person as the Authority may from time to time designate by notice to the Consultant; provided that if the Consultant does not have an office in Puducherry 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 email, it shall be deemed to have been delivered on the working days following the date of its delivery.

## **1.8 Location**

**1.8.1** The Services shall be performed at the offices of the Authority in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Consultant.

**1.8.2** The Authority may require the Team Leader cum Financial Expert to spend the required man hours at the offices of the Authority and the Consultant agrees and undertakes to provide such services on a best effort basis and without any unreasonable delay.

## **1.9 Authority of Member-in-charge**

In case the Consultant 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 Consultant's

rights and obligations towards the Authority under this Agreement, including without limitation the receiving of instructions and payments from the Authority.

**1.10 Authorized 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 Authority or the Consultant, as the case may be, may be taken or executed by the officials specified in the Clause 1.10.

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

Managing Director,  
Hotel Pondicherry Ashok,  
Kalapet Beach  
Puducherry - 605014  
Telephone: +91-413 – 2655160-13  
Facsimile: +91- 413 - 2655140  
E-mail: gm@ashokresortl.com

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

-----  
-----  
Tel: -----  
Mobile: -----  
Fax: -----  
Email: -----

**1.11 Taxes and duties**

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

**2.0 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 Consultant 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 Consultant does not commence the Services within the period specified in Clause 2.2 above, the Authority may, by not less than 1 (one) weeks' notice to the Consultant, declare this Agreement to be null and void and in the event of such a declaration, this Agreement shall stand terminated and the Consultant shall be deemed to have accepted such termination.

### **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 90 (Ninety) days after the delivery of the final Deliverable to the Authority ; and (ii) the expiry of 32 weeks + 18 (Eighteen Months) from the Effective Date. Upon Termination, the Authority shall make payments of all amounts due to the Consultant hereunder.

### **2.5 Entire Agreement**

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 Consultant 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 such Party's Sub-Consultant 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 fulfill 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 Measure to remove such Party's inability to fulfill 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 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 Consultant shall be entitled to be reimbursed for additional costs reasonably and necessarily incurred by it during such period for the purpose 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 Consultant 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 Authority may, by written notice of suspension to the Consultant, suspend all payments to the Consultant hereunder if the Consultant 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 Consultant to remedy such breach or failure within a period not exceeding 30 (thirty) days after receipt by the Consultant of such notice of suspension.

#### **2.9 Termination of Agreement**

##### **2.9.1 By the Authority**

The Authority may, by not less than 15 (fifteen) days written notice of termination to the Consultant, 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 Consultant 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 15 (fifteen) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;

- (b) the Consultant 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 Consultant fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- (d) the Consultant submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Consultant knows to be false;
- (e) any document, information, data or statement submitted by the Consultant in its Proposals, based on which the Consultant was considered eligible or successful, is found to be false, incorrect or misleading;
- (f) as the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

#### **2.9.2 By the Consultant**

The Consultant may, by not less than 30 (thirty) days written notice to the Authority, 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 Authority fails to pay any money due to the Consultant 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 Consultant that such payment is overdue;
- (b) The Authority 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 Consultant may have subsequently granted in writing) following the receipt by the Authority of the Consultant's notice specifying such breach;
- (c) As the result of Force Majeure, the Consultant is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- (d) The Authority 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 survives such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Consultant's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.5, as relate to the Consultant's Services provided under this Agreement, and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Laws.

#### **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 Consultant 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 Consultant and materials furnished by the Authority, the Consultant shall proceed as provided respectively by Clauses 3.8 or 3.9 hereof.

#### **2.9.5 Payment upon Termination**

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

- (a) remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- (b) reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; and
- (c) 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 Consultant'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.

### **3.0 Obligations of the Consultant**

#### **3.1 General**

##### **3.1.1 Standards of Performance**

The Consultant 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 Consultant shall always act, in respect of any matter relating to this Agreement or to the Services, as a faithful adviser to the Authority, and shall at all times support and safeguard the Authority's legitimate interests in any dealings with Sub-consultants or Third Parties.

##### **3.1.2 Terms of Reference**

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

##### **3.1.3 Applicable Laws**

The Consultant shall perform the Services in accordance with the Applicable Laws and shall take all practicable steps to ensure that any Sub-Consultant, as well as the Personnel and agents of the Consultant and any Sub-Consultant, comply with the Applicable Laws.

#### **3.2 Conflict of Interest**

**3.2.1** The Consultant shall not have a Conflict of interest and any breach hereof shall constitute a breach of the Agreement.

**3.2.2** Consultant and Affiliates not to be otherwise interested in the Project

The Consultant agrees that, during the term of this Agreement and after its termination, the Consultant or any Associate thereof, as well as any Sub- Consultant and any entity affiliated with such Sub-Consultant, shall be disqualified from providing goods, works, services, loans or equity for any project resulting from or closely related to the Services and any breach of this obligation shall amount to a Conflict of Interest; provided that the restriction herein shall not apply after a period of 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 consultancy/ advisory services provided to the Authority in continuation of this Consultancy or to any subsequent consultancy/ advisory services provided to the Authority in accordance with the rules of the Authority. For the avoidance of doubt, an entity affiliated with the Consultant shall include a partner in the firm of the Consultant or a person who holds more than 5% (five per cent) of the subscribed and paid up share capital of the Consultant, as the case may be, and any Associate thereof.

### 3.2.3 Prohibition of conflicting activities

Neither the Consultant nor its Sub-consultant nor the Personnel of either of them 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.

### 3.2.4 Consultant not to benefit from commissions discounts, etc.

The remuneration of the Consultant pursuant to Clause 6 hereof shall constitute the Consultant's sole remuneration in connection with this Agreement or the Services and the Consultant 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 Consultant shall use its best efforts to ensure that any Sub-Consultant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

- 3.2.5** The Consultant and its Personnel shall observe the highest standards of ethics and 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 Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Consultant, without being liable in any manner whatsoever to the Consultant, if it determines that the Consultant 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 Authority shall forfeit and appropriate the Performance security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to the Authority's any other rights or remedy hereunder or in law.

**3.2.6** Without prejudice to the rights of the Authority under Clause 3.2.5 above and the other rights and remedies which the Authority may have under this Agreement, if the Consultant is found by the Authority 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 Consultant shall not be eligible to participate in any tender or RFP issued during a period of 2 (two) years from the date the Consultant is found by the Authority 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 Authority 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 Authority, 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 Authority in relation to any matter concerning the Project;
- (b) "**fraudulent practice**" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the 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 Authority under this Agreement;
- (d) "**undesirable practice**" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and

- (e) "**restrictive practice**" means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.

### **3.3 Confidentiality**

The Consultant, its Sub-Consultants and the Personnel of either of them 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 Authority to the Consultant, its Sub-Consultants and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority's employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Consultant 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 Authority. Notwithstanding the aforesaid, the Consultant, its Sub-Consultants and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- (a) was in the public domain prior to its delivery to the Consultant, its Sub-Consultants and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Consultant, its Sub-Consultants and the Personnel of either of them;
- (b) was obtained from a third party with no known duty to maintain its confidentiality;
- (c) 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 Consultant, its Sub-Consultants and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- (d) is provided to the professional advisers, agents, auditors or representatives of the Consultant or its Sub-Consultants or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Consultant or its Sub-Consultants or Personnel of either of them, 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 Consultant**

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

#### **3.4.2 Consultant's liability towards the Authority**

The Consultant shall, subject to the limitation specified in Clause 3.4.3, be liable to the Authority 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 willful misconduct on the part of the Consultant or on the part of any person or firm acting on behalf of the Consultant in carrying out the Services, the Consultant, with respect to damage caused to the Authority's property, shall not be liable to the Authority:

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

(b) 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 consultant may be entitled to receive from any insurance maintained by the Consultant to cover such a liability, whichever of (a) or (b) is higher.

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

### **3.5 Accounting, inspection and auditing**

The Consultant 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 Consultant's costs and charges); and

(b) permit the Authority 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 Authority.

### **3.6 Consultant's actions requiring the Authority's prior approval**

The Consultant shall obtain the Authority's prior approval in writing before taking any of the following actions:

- (a) Appointing such members of the professional personnel as are not listed in Annex-2;
- (b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-consultant and the terms and conditions of the subcontract shall have been approved in writing by the Authority prior to the execution of the subcontract, and (ii) that the Consultant shall remain fully liable for the performance of the Services by the Sub-Consultant and its Personnel pursuant to this Agreement; or
- (c) any other action that is specified in this Agreement.

### **3.7 Reporting obligations**

- 3.7.1** The Consultant shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.
- 3.7.2** The Consultant shall electronically and by mail, submit fortnightly time reports of each of the Key Personnel, to the Authority, in the format set out in Annex-8 hereto. Such time reports shall be submitted on the 15<sup>th</sup> and the last day of each calendar month by end of the business day and shall include the number of hours expended on the Project by the Key Personnel on each working day of the fortnight covered by the time report. The time reports shall also include a brief description of work performed during that fortnight by each of the Key Personnel.

### **3.8 Documents prepared by the Consultant to be property of the Authority**

- 3.8.1** All reports and other documents (collectively referred to as "**Consultancy Documents**") prepared by the Consultant (or by the Sub-Consultants or any Third Party) in performing the Services shall become and remain the property of the Authority, and all intellectual property rights in such Consultancy Documents shall vest with the Authority. Any Consultancy Document, of which the ownership or the intellectual property rights do not vest with the Authority under law, shall automatically stand assigned to the Authority as and when such Consultancy Document is created and the Consultant agrees to execute all papers and to perform such other acts as the Authority may deem necessary to secure its rights herein assigned by the Consultant.
- 3.8.2** The Consultant shall, not later than termination or expiration of this Agreement, deliver all Consultancy Documents to the Authority, together with a detailed inventory thereof. The Consultant may retain a copy of such Consultancy Documents. The Consultant, its Sub-

Consultants or a Third Party shall not use these Consultancy Documents for purposes unrelated to this Agreement without the prior written approval of the Authority.

**3.8.3** The Consultant shall hold the Authority 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 unauthorized use of such Consultancy Documents, or due to any breach or failure on part of the Consultant or its Sub-Consultants or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Authority.

### **3.9 Materials furnished by the Authority**

Materials made available to the Consultant by the Authority shall be the property of the Authority and shall be marked accordingly. Upon termination or expiration of this Agreement, the Consultant shall furnish forthwith to the Authority, an inventory of such materials and shall dispose of such materials in accordance with the instructions of the Authority.

### **3.10 Providing access to Project Office and Personnel**

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

### **3.11 Accuracy of Documents**

The Consultant shall be responsible for accuracy of the documents drafted and/ or vetted and data collected by it directly or procured from other agencies/authorities, 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 Authority 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 Consultant or arises out of its failure to conform to good industry practice. The Consultant shall also be responsible for promptly correcting, at its own cost and risk, the documents including any re-survey / investigations.

## **4.0 Consultant's Personnel and Sub-Consultants**

### **4.1 General**

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

#### **4.2 Deployment of Personnel**

**4.2.1** The designations, names and other particulars of the estimated periods of engagement in carrying out the Services by each of the Consultant's Personnel are described in Annex-2 of this Agreement. The estimate of Personnel costs and man day rates are specified in Annex-3 of this Agreement.

**4.2.2** Not Applicable

**4.2.3** If additional work is required beyond the scope of the Services specified in the Terms of Reference, the estimated periods of engagement of Personnel, set forth in the Annexes of the Agreement may be increased by agreement in writing between the Authority and the Consultant, provided that any such increase shall not, except as otherwise agreed, cause payments under this Agreement to exceed the Agreement Value set forth in Clause 6.1.2.

#### **4.3 Approval of Personnel**

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

**4.3.2** If the Consultant hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Appendix-I (Form-11) of the RFP. The Authority 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 Authority's consideration. In the event the Authority 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 Authority.

#### **4.4 Substitution of Key Personnel**

The Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Consultant and the concerned Key Personnel. Such substitution shall be limited to not more than one Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Without prejudice to the foregoing, substitution of the Team Leader cum Financial Expert shall be permitted only upon reduction of remuneration equal to 30% (thirty per cent) of the total remuneration

specified for the Team Leader who is proposed to be substituted. The Consultant should specifically note that substitution of the Consultant will not normally be considered during the implementation of the Agreement and may lead to disqualification of the Applicant or termination of the Agreement. The Consultant must commit the time required for and be available for delivering the Consultancy in accordance with the terms specified herein.

**4.5 Working hours, overtime, leave, etc.**

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the Consultant's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the mandays of service set forth in Annex-2. Any taking of leave by any Personnel for a period exceeding 7 days shall be subject to the prior approval of the Authority, and the Consultant shall ensure that any absence on leave will not delay the progress and quality of the Services.

**4.6 Team Leader**

The person designated as Team Leader of the Consultant's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel.

**4.7 Sub-Consultants**

Sub-Consultants listed in Annex-4 of this Agreement are hereby approved by the Authority. The Consultant may, with prior written approval of the Authority, engage additional Sub-Consultants or substitute an existing Sub-Consultant. The hiring of Personnel by the Sub-Consultants shall be subject to the same conditions as applicable to Personnel of the Consultant under this Clause 4.

**5.0 Obligations of the Authority**

**5.1 Assistance in clearances etc.**

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

- (a) provide the Consultant, its Sub-Consultants and Personnel with work permits and such other documents as may be necessary to enable the Consultant, its Sub-Consultants 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 Authority warrants that the Consultant 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 Consultant 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 Consultant as a result thereof pursuant to Clause 6.1.3.

## **5.3 Change in Applicable Law**

- 5.3.1** 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 Consultant in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Consultant under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.

- 5.3.2** All service tax and other taxes other than income tax, as may be applicable from time to time, on the payment of the professional fees to the Consultant, shall be borne by the Authority.

## **5.4 Payment**

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

## **6.0 Payment to the Consultant**

### **6.1 Cost estimates and Agreement Value**

- 6.1.1** An abstract of the cost of the Services payable to the Consultant is set forth in Annex-5 of the Agreement.

- 6.1.2** Except as may be otherwise agreed under Clause 2.6 and subject to Clauses 4.2.2 and 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. ----- (Rs-----), which does not include the Service Tax.

**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 Consultant in order to cover any additional expenditure 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 Consultant 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 Consultant shall be paid for its services as per the Payment Schedule at Annex-6 of this Agreement, and Clauses 5.2 and 5.3 of the TOR, and the rates specified in Annex-4 of this Agreement, subject to the Consultant fulfilling the following conditions:
- i. No payment shall be due for the next stage till the Consultant completes to the satisfaction of the Authority the work pertaining to the preceding stage. Provided, however, that for the Deliverables specified in Clause 5.2 of the TOR, payment shall be due and payable by the Authority for the man hours spent during each calendar month;
  - ii. The Authority shall pay to the Consultant, only the undisputed amount.
- (b) The Authority shall cause the payment due to the Consultant to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the "**Due Date**"). Interest at the rate of 10% (ten per cent) per annum shall become payable by the Authority as from the Due Date on any amount due by, but not paid on or before, such Due Date.
- (c) The final payment under this Clause 6.3 shall be made only after the final Deliverable shall have been submitted by the Consultant and approved as satisfactory by the Authority. The Services shall be deemed completed and finally accepted by the Authority and the final Deliverable shall be deemed approved by the Authority as satisfactory upon expiry of 60 (sixty) days after receipt of the final Deliverable unless the Authority, within such 60 (sixty) day period, gives written notice to the consultant specifying in detail, the deficiencies in the Services. The Consultant 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 Authority

shall make the final payment upon acceptance or deemed acceptance of the final Deliverable by the Authority.

- (d) Any amount which the Authority 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 Consultant to the Authority within 30 (thirty) days after receipt by the Consultant of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report and a final statement in accordance with Clause 6.3 (d). Any delay by the Consultant in reimbursement by the due date shall attract simple interest @ 10% (ten per cent) per annum.
- (e) All payments under this Agreement shall be made to the account of the Consultant as may be notified to the Authority by the Consultant.

## **7.0 Liquidated Damages and Penalties**

### **7.1 Performance Security**

- 7.1.1** For the purposes of this Agreement, performance security shall be deemed to be an amount equal to 10% (ten per cent) of the Agreement Value (the "**Performance Security**"); provided that the Consultant shall not be required to provide Performance Security in the form of a bank guarantee or cash deposit. **It is proposed to deduct 10% of bill amount from each bill towards Performance Security. .**
- 7.1.2** Notwithstanding anything to the contrary contained in Clause 7.1.1, as and when payments become due to the Consultant for its Services, the Authority shall retain by way of Performance Security, 10% (ten per cent) of all the amounts due and payable to the Consultant, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in Clause 7.2. The balance remaining out of the Performance Security shall be returned to the Consultant at the end of three months after the expiry of this Agreement pursuant to Clause 2.4 hereof. For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security, the Authority may make deductions from any subsequent payments due and payable to the Financial Consultant hereunder, as if it is appropriating the Performance Security in accordance with the provisions of this Agreement.
- 7.1.3** The Consultant 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-7 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 Consultant and such error or variation is the result of negligence or lack of due diligence on the part of the Consultant, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the Consultant by way of deemed liquidated damages, subject to a maximum of the Agreement Value.

### **7.2.7 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 shall 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 Consultant, suitable extension of time shall be granted.

### **7.2.3 Encashment and appropriation of Bid and Performance Security**

The Authority shall have the right to invoke and appropriate the proceeds of the Bid and Performance Security, in whole or in part, without notice to the Consultant 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 Consultant 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 Authority, other penal action including debarment for a specified period may also be initiated as per policy of the Authority.

## **8.0 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 recognize 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 8.2 shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

## **9.0 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 MD, PAHCL and the Managing Partner/ Chairman of the Board of Directors of the Consultant 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.

**9.4 Arbitration**

**9.4.1** In respect of any Dispute relating to the terms of the RFP, the matter shall be referred to the sole arbitration of the MD,PAHCL or any other person appointed by him in this behalf . The award given by the Arbitrator shall be binding upon the parties. It is specifically agreed by the Advisory Consultant that it will have no objection to any such appointment. The arbitrator so appointed shall have the power to extend the time for making an award. The said Arbitrator shall act under provisions of the Arbitration and Conciliation Act, 1996. The courts at Puducherry shall have exclusive jurisdiction.

**9.4.4** The Consultant and the Authority agree that an Award may be enforced against the Consultant and/or the Authority, as the case may be, and their respective assets wherever situated.

**9.4.5** This 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 AND DELIVERED

SIGNED, SEALED AND DELIVERED

For and on behalf of Consultant:

For and on behalf of Authority

(Signature)

(Signature)

(Name)

(Name)

(Designation)

(Designation)

(Address)

(Address)

(Fax No.)

(Fax No.)

In the presence of:

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapetl,  
UT of Puducherry under PPP Mode*

**Annex – 2**  
**Deployment of Personnel**  
*(Refer Clause 4.2)*  
(Reproduce as per Form-6 of Appendix-I)

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapetl,  
UT of Puducherry under PPP Mode*

**Annex – 3**  
**Estimate of Personnel Costs**  
*(Refer Clause 4.2)*  
(Reproduce as per Form-3 of Appendix-II)

**Annex – 4**  
**Approved Sub-Consultant(s)**  
*(Refer Clause 4.7)*  
(Reproduce as per Form-12 of Appendix-I)  
*Infrastructure Corporation*

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapetl,  
UT of Puducherry under PPP Mode*

**Annex – 5**  
**Cost of Services**  
*(Refer Clause 6.1)*  
(Reproduce as per Form-2 of Appendix-II)  
*Infrastructure Corporation*

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapetl,  
UT of Puducherry under PPP Mode*

**Annex – 6**  
**Payment Schedule\*\*\***  
*(Refer Clause 6.3)*

Sl. No	Reports	Particulars	Period in Week	Payments
1	Inception Report including Independent Report designs, distinct matrix of Processing Zone and Non Processing Zone.	The report shall enumerate the initial findings, detailed planning of project activities and the tentative cost of Project and the potential and demand for the Project. It shall also describe the methodologies followed for the development of project objectives and deliverables in accordance with the Project Quality Procedure of Reporting.	1	10%
2	Market Survey Report with details of demand	The report shall analyze the potential for development of SEZ Methodology to be adopted for the demand for the Project indicating the BEST USE Option Study.	1	05%
3	Legal Due Diligence Report	The Report shall address the Title Related Issues with Due Diligence for developing the Project on PPP Model. The report shall evolve business strategies in the development of project components concluding project costing and recovery of investment. The report shall conclude detailed financial model depicting the standard financial review parameters like project IRR, Equity IRR, DSCR and Sensitivity analysis with the assumption of anticipated risks.	1	05%
4	Draft Detailed Project Report and Presentation to Hotel Pondicherry Ashok	The financial plan shall be developed for the best option model. SWOT Analysis of Project without cross subsidization to be included with	1	10%

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		Tax, Insurance related Issues, Project Risk Report as to the Phasing Strategy, Positioning Strategy and the Clientele to be addressed with associated Risk. Bidders Perception of the Project and Impact of the Project on Government resources may also be covered.		
5	Final Detailed Project Report	The Project Appraisal Report and Presentation shall contain the recommendation for the suggested model duly explaining the salient features of the above mentioned reports. The Project Appraisal Report & Presentation is to be made to PAHCL for its review & approval.	1	20%
<b>Total</b>			<b>5</b>	<b>50%</b>
The Actual Weeks consumed will be 12 only as some tasks can move parallel				
6	Pre-qualification document	Preparation of EOI cum RFQ document for the project and modify as per the review and approved by Authority.	2	05%
7	Evaluation Report on Pre-qualification of developers.	Evaluation of RFQ proposals and submission of evaluation report for review and approval by the Authority.	1	05%
8	RFP document along with draft concession agreement.	Submission of RFP documents to be given to short- listed developers and submission for review & approval by Authority.	2	05%
9	RFP evaluation	Evaluation of RFP proposals after conducting pre-bid conference and submission of evaluation report for review and approval by Authority, due diligence and Analysis of Bidders, Estimation of Revenues, their Financial Model, Revenue Model, and reasonableness of the assumptions made, Analysis of Marketing Strategy and Product Mix Design. Presentation on Evaluation of Bids to Project Review Committee and High power Committee for Approval.	2	05%
10	Final Report on bid	Final report detailing the salient	1	10%

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	Process	features of the bid process and Concession Agreement for approval by the Authority		
11	Independent Engineer	Preparation of RFQ & RFP and selection of Independent Engineer	1	---
12	Project Completion Report	Completion of Services of Bid Process including signing of Concession Agreement	1	20%
Total			10	50%
Grand Total			12 ***	100%

**Notes:**

*1 All Reports shall first be submitted as draft reports for comments of the Authority. The Authority shall provide its comments no later than Fourteen days from the date of receiving a draft report and in case no comments are provided within such period, the Consultant shall finalize its report.*

*2. Final payment of 20% (twenty percent) shall be released proportionately upon Services in their entirety including execution of the Concession Agreement for each of the package.*

-----  
\*\*\* The Payment Schedule should be in conformity with the Schedule provided in the TOR at Schedule-I

**Annex-7**  
**Bank Guarantee for Performance Security**  
*(Refer Clause 7.13)*

To

HOTEL PONDICHERRY ASHOK  
ECR  
Kalapet Beach,  
Pondicherry – 605 014

In consideration of Hotel Pondicherry Ashok , a unit of Pondicherry Ashok Hotel Corporation Limited (PAHCL) (hereinafter referred as the "**Authority**", 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 "**Consultant**" which expression shall, unless repugnant to the context or meaning thereof, include its successors, administrators, executors and assigns), vide the Authority's Agreement No. \_\_\_\_\_ dated \_\_\_\_\_ valued at Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_), (hereinafter referred to as the "Agreement") a consultancy services for [NW], and the Consultant having agreed to furnish a Bank Guarantee amounting to RS. \_\_\_\_\_ (Rupees \_\_\_\_\_ ) to the Authority for performance of the said Agreement.

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

2. We \_\_\_\_\_ (indicate the name of the Bank) do hereby undertake to pay the amounts due and payable under this Guarantee without any demur, merely on a demand from the Authority stating that the amount / claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Consultant of any of the terms or conditions contained in the said Agreement or by reason of the Consultant's failure to perform the said Agreement. Any such demand made on the bank shall be conclusive as regards the amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. \_\_\_\_\_ (Rupees \_\_\_\_\_ ).

3. We, \_\_\_\_\_ (indicate the name of Bank) undertake to pay to the Authority any money so demanded notwithstanding any dispute or disputes raised by the Consultant in any suit or

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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 thereunder and the Consultant shall have no claim against us for making such payment.

4. We, \_\_\_\_\_ (indicate the name of Bank) further agree that the Guarantee herein contained shall remain in full force and effect during the period that would be taken for the performance of the said Agreement and that it shall continue to be enforceable till all the dues of the Authority under or by virtue of the said Agreement have been fully paid and its claims satisfied or discharged or till the Authority certifies that the terms and conditions of the said Agreement have been fully and properly carried out by the said Consultant and accordingly discharges this Guarantee. Unless a demand or claim under this Guarantee is made on as in writing on or before a period of one year from the date of this Guarantee, we shall be discharged from all liability under this Guarantee thereafter.

5. We, \_\_\_\_\_ (indicate the name of Bank) further agree with the Authority that the Authority shall have the fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time of performance by the said Consultant from time to time or to postpone for any time or from time to time any of the powers exercisable by the Authority against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation, or extension being granted to the said Consultant or for any forbearance, act or omission on the part of the Authority or any indulgence Consultant matter or thing whatsoever which under the law relating to sureties 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 Consultant(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 Authority in writing.

8. For the avoidance of doubt, the Bank's liability under this Guarantee shall be restricted to Rs. \* \* \* (Rupees \*\*-\*\*\* ) only. The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 2 hereof, on or before [\*\*\* (indicate date falling 180 days after the Bid Due Date specified in the RFQ/RFP for the Project)].

Dated, the \_\_\_\_\_ day of \_\_\_\_\_ 20

For \_\_\_\_\_

(Name of Bank)

(Signature, name and designation of the authorized signatory)

**Seal of the Bank:**

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**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.

**Annex-8**  
(Name of Consultant)  
**Fortnightly Time Report**  
(Refer Clause 3.7.2)

Project Name:

Fortnight ending:

Week One from \_\_\_\_\_ to \_\_\_\_\_ (insert dates covered by Week One)

Key Personnel	Hours on Site	Hours off Site	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total Hours

Week Two from----- to ----- (insert dates covered by Week Two)

Key Personnel	Hours on Site	Hours off Site	Mon	Tue	Wed	Thu	Fri	Sat	Sun	Total Hours

Provide brief description of work undertaken on each day of the fortnight, below:

Date: (Signature and name of authorized signatory)

Note: Hours on Site included time spent in the office of the Authority or at any place other than the office of the Consultant, as may be necessary for carrying out the assignment.

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**SCHEDULE-3**

*(See Clause 2.3.3)*

**Guidance Note on Conflict of Interest**

1. This Now 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. Consultants 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 consultants should avoid both actual and perceived conflict of interest.
3. Conflict of interest may arise between the Authority and a consultant or between consultants and present or future concessionaries/ contractors. Some of the situations that would involve conflict of interest are identified below:
  - i. Authority and consultants:
    - (a) Potential consultant should not be privy to information from the Authority which is not available to others.
    - (b) Potential consultant should not have defined the project when earlier working for the Authority.
    - (c) Potential consultant should not have recently worked for the Authority overseeing the project.
  - ii. Consultants and concessionaires/contractors:
    - (a) No consultant 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.
    - (b) No consultant should be involved in owning or operating entities resulting from the project.
    - (c) No consultant should bid for works arising from the project.

The participation of companies that may be involved as investors or consumers and officials of the Authority 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 consultants. Where a conflict exists, which has not been declared, competing companies are likely to bring

this to the notice of the Authority. All conflicts must be declared as and when the consultants 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 consultant'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 consultant coupled with provision of safeguards to the satisfaction of the Authority.
6. Another way to avoid conflicts of interest is through the appropriate grouping of tasks. For example, conflicts may arise if consultants 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 consultants advocate either an unnecessary broadening of the terms of reference or make recommendations which are not in the best interests of the Authority but which will generate further work for the consultants. 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 consultants to extend the length of their assignment.
8. Every project contains potential conflicts of interest. Consultants should not only avoid any conflict of interest, they should report any present/ potential conflict of interest to the Authority at the earliest. Officials of the Authority 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.

## APPENDICES

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapetl,  
UT of Puducherry under PPP Mode*

**APPENDIX-I**  
*(See Clause 2.13)*  
**TECHNICAL PROPOSAL**  
Form-1  
**Letter of Proposal**

(On Applicant's letter head)

(Date and Reference)

To,

\*\*\*\*\*

\*\*\*\*\*

\*\*\*\*\*

Sub: Appointment of Transaction Advisory Consultant for “ Development of Tourism Zone at Hotel Pondicherry Ashok, Kalapet Beach, ECR PUDUCHERRY under PPP Mode”

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 Advisory Consultant (the "**Consultant**") for [“Development of Tourism Zone at Hotel Pondicherry Ashok, Kalapet beach, ECR, Puducherry, UT of Puducherry under PPP Mode”]. The proposal is unconditional and unqualified.

2. I/We acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the Consultant, and we certify that all information provided in the Proposal and in the Appendices is true and correct, nothing has been omitted which renders such information misleading; 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 Consultant for the aforesaid Project.
4. I / We shall make available to the Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.

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5. I / We acknowledge the right of the Authority 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 authority or a judicial pronouncement or arbitration award against the Applicant, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/We declare that:
  - (a) We have examined and have no reservations to the RFP Documents, including any Addendum issued by the Authority;
  - (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 Authority or any other public sector enterprise or any government, Central or State; and
  - (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 4 of the RFP, no person acting for us or on our behalf 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 Consultant, without incurring any liability to the Applicants in accordance with Clause 2.8 of the RFP document.
9. I / We declare that we are not a member of any other Consortium applying for Selection as a Consultant.
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 authority 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 authority 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 Authority [and/ or the Government of India] in connection with the selection of Consultant or in connection with the Selection Process itself in respect of the above mentioned Project.
14. 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.
15. I / We agree to keep this offer valid for 90 (ninety) days from the PDD specified in the RFP.
16. A Power of Attorney in favour of the authorized signatory to sign and submit this Proposal and documents is attached herewith in Form 4.
17. In the event of my/our firm being selected as the Consultant, 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.
18. In the event of my/our firm being selected as the Consultant, I/we agree and undertake to provide the services of the Team Leader cum Financial Expert in accordance with the provisions of the RFP and that the Team Leader cum Financial Expert shall be responsible for providing the agreed services himself and not through any other person or Associate.
19. I/We have studied RFP and all other documents carefully. 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 Authority 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 authorized signatory)

(Name and seal of the Applicant / Lead Member)

**APPENDIX-I**  
**Form-2**  
Particulars of the Applicant

1.1	Title of Consultancy:
1.2	Title of Project: "Development of Tourism Zone at Kalapet Beach, Puducherry, UT of Puducherry under PPP Mode"
1.3	State whether applying as Sole Firm or Lead Member of a consortium: Sole Firm or Lead Member of a consortium
1.4	State the following: Name of Firm: Legal status (e.g. sole proprietorship or partnership): Country of incorporation: Registered address:  Year of Incorporation: Year of commencement of business: Principal place of business:  Name, designation, address and phone numbers of authorized signatory of the Applicant: Name: Designation: Company: Address: Phone No.: Fax No.: E-mail address:
1.5	If the Applicant is Lead Member of a consortium, state the following for each of the other Member Firms:  (i) Name of Firm:  (ii) Legal Status and country of incorporation  (iii) Registered address and principal place of business.

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REQUEST FOR PROPOSAL

1.6	<p>For the Applicant, (in case of a consortium, for each Member), state the following information:</p> <p>(i) In case of non Indian Firm, does the Firm have business presence in India? Yes/No If so, provide the office addresses) in India.</p> <p>(ii) Has the Applicant or any of the Members in case of a consortium been penalised by any organization for poor quality of work or breach of contract in the, last five years? Yes/No</p> <p>(iii) Has the Applicant/ or any of its Associates ever failed to complete any work awarded to it by any public authority/ entity in last five years? Yes/No</p> <p>(iv) Has the Applicant or any member of the consortium been blacklisted by any Government department/Public Sector Undertaking in the last five years? Yes/No</p> <p>(v) Has the Applicant or any of its Associates, in case of a consortium, suffered bankruptcy/insolvency in the last five years? Yes/No</p> <p><b>Note: If answer to any of the questions at (ii) to (v) is yes, the Applicant is not eligible for this consultancy assignment.</b></p>
1.7	<p>(Signature, name and designation of the authorized signatory) For and on behalf of-----</p>

**APPENDIX-I**

**Form-3**

**Statement of Legal Capacity**

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

Ref. Date:

To,

\*\*\*\*\*

\*\*\*\*\*

Dear Sir,

Sub: RFP for Consultant for Transaction Advisory Services

for Development of Tourism Zone

at Kalapet Beach, Puducherry, UT of Puducherry under PPP Mode

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.

Methodology of selection through Selection Committee

I/We have agreed that----- (insert individual's name) will act as our Authorized Representative/ will act as the Authorized Representative of the consortium on our behalf and has been duly authorized to submit our Proposal. Further, the authorized 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*

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UT of Puducherry under PPP Mode*

**APPENDIX-I**  
**Form-4**  
**Power of Attorney**

Know all men by these presents, we, ----- (name of Firm and address of the registered office) do hereby constitute, nominate, appoint and authorise Mr / Ms ----- son/daughter/wife and presently residing at -----, who is presently employed with/retained by us and holding the position of ----- as our true and lawful attorney (hereinafter referred to as the "Authorized 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 Consultant for Transaction Advisory Services for "Development of Tourism Zone at Kalapet Beach, Puducherry, UT of Puducherry under PPP Mode" proposed to be developed by the \*\*\* \*\* (the "Authority") including but not limited to signing and submission of all applications, proposals and other documents and writings, participating in pre-bid and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts and undertakings consequent to acceptance of our proposal and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Proposal for the said Project and/or upon award thereof to us till the entering into of the Agreement with the Authority.

AND, we do hereby agree to ratify and confirm all acts, deeds and things lawfully done or caused to be done by our said Authorized 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 Authorized 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.

1.

Notarised

Accepted

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

*Development of Tourism Zone at  
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**Notes:**

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

*Wherever required, the 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. For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Applicants from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Apostille certificate.*

**APPENDIX-I**  
**Form-5**  
**Financial Capacity of the Applicant**  
(Refer Clause 2.2.2 (B))

S. No.	Financial Year	Annual Revenue (Rs./US \$ in million)
1		
2		
3		

**Certificate from the Statutory Auditor<sup>§</sup>**

This is to certify that ..... (name of the Applicant) has received the payments shown above against the respective years on account of professional fees.

(Signature, name and designation of the authorized signatory)

Date: Name and seal of the audit firm:

<sup>§</sup>In case the Applicant does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant.

**Note:**

1. Please do not attach any printed Annual Financial Statement.

**APPENDIX-I**  
**Form-6**  
**Particulars of Key Personnel**

S. No.	Designation of Key Person	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments#
					Name of Firm	Employed Since	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Team Leader						
2.	Financial Consultant						
3.	Associate Consultant (Architect/ Tech.)						
4.	Associate Legal Consultant						
5.	Surveyor						
6.	Tourism Analyst						
7.	Environment Analyst						

#Refer Form 8 of Appendix I Experience of Key Personnel

**APPENDIX-I**  
**Form-7**  
**Abstract of Eligible Assignments of the Applicant#**  
(Ref Clause 3.1)

S.No.	Name of Project	Name of Client	Estimated capital cost of Project (in Rs. Crore/US\$ million)	Professional fee## received by the Applicant (in Rs. Crore)£
(1)*	(2)	(3)	(4)	(5)
1				
2				
3				
4				
5				

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

## Exchange rate should be taken as Rs. (50) per US \$ for conversion to Rupees.

£ In the event that the Applicant does not wish to disclose the actual fee received for any particular assignment, it may state that it has received more than the amount specified for eligibility under this RFP. For example, it may state: "Above Rs. 5 (five) lakh" in respect of a particular project.

\* The names and chronology of the projects included here should conform to the project-wise details submitted in Form-9 A of Appendix-I.

**Certificate from the Statutory Auditor§**

This is to certify that the information contained in Column 5 above is correct as per the accounts of the Applicant and/ or the clients.

(Signature, name and designation of the authorized signatory)

Date: Name and seal of the audit firm:

§In case the Applicant does not have a statutory auditor, it shall provide the certificate from its chartered accountant that ordinarily audits the annual accounts of the Applicant.

**APPENDIX-I**  
**Form-8**  
**Abstract of Eligible Assignments of the Key personnel**  
(Ref Clause 3.1)

Name o Key Personnel:

Designation:

S. No	Name of Project*	Name of Client	Estimated capital cost of Project (in Rs. Crore/US\$ million)	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the assignment	Date of completion of the assignment	Man hours spent on the assignment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1							
2							
3							
4							
5							

@ Use separate Form for each Key Personnel.

§ In the case of Team Leader cum Financial Expert, only those assignments shall be included where substantial portion of the total professional fee received by the firm was on account of the man hours provided by the Team Leader cum Financial Expert.

\* The names and chronology of projects included here should conform to the project-wise details submitted in Form-10 of Appendix-I.

**APPENDIX-I**

**Form-8A @**

**Abstract of Eligible Assignments of the Key personnel**

(Ref Clause 3.1.5)

Name o Key Personnel:

Designation:

S. No.	Name of Project*	Name of Client	Estimated capital cost of Project (in Rs. Crore/US\$ million)	Name of firm for which the Key Personnel worked	Designation of the Key Personnel on the assignment	Date of completion of the assignment	Man hours spent on the assignment
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1							
2							
3							
4							
5							

@ Use separate Form for each Key Personnel.

<sup>§</sup>In the case of Team Leader cum Financial Expert, only those assignments shall be included where substantial portion of the total professional fee received by the firm was on account of the man hours provided by the Team Leader cum Financial Expert.

\* The names and chronology of projects included here should conform to the project-wise details submitted in Form-10A of Appendix-I.

**APPENDIX-I**  
**Form-9**  
**Eligible Assignments of Applicant**  
(Refer Clause 3.1.4)

Name of Applicant:	
Name of the Project:	
Other particulars of Assignment	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs. Crore or US\$ million):	
Payment received by the Applicant as professional fees (in Rs. Crore):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

**Notes:**

1. Use separate sheet for each Eligible Assignment.
2. Exchange rate should be taken as Rs. (50) per US \$ for converting to Rupees.

**APPENDIX-I**  
**Form-9A**  
**Other relevant assignments of Applicant**  
(Refer Clause 3.1.5)

Name of Applicant:	
Name of the Project:	
Other particulars of Assignment	
Description of services performed by the Applicant firm:	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs. Crore or US\$ million):	
Payment received by the Applicant as professional fees (in Rs. Crore):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

**Notes:**

1. Use separate sheet for each Assignment.
2. Exchange rate should be taken as Rs. (50) per US \$ for converting to Rupees

**APPENDIX-I**  
**Form-10**  
**Eligible Assignments of Key Personnel**  
(Refer Clause 3.1.4)

Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Other particulars of Assignment	
Name of Consulting Firm where employed:	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs. Crore or US\$ million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

**Notes:**

1. Use separate sheet for each Eligible Assignment.
2. In the case of Team Leader-cum-Financial Expert, only those Eligible Assignments shall be included where at least 20% of the total professional fee received by the firm was on account of the man hours provided by the Financial Expert.
3. Exchange rate should be taken as Rs. (50) per US \$ for converting to Rupees.

**APPENDIX-I**  
**Form-10A**  
**Other relevant assignments of Key Personnel**  
(Refer Clause 3.1.5)

Name of Key Personnel:	
Designation of Key Personnel:	
Name of the Project:	
Other particulars of Assignment	
Name of Consulting Firm where employed:	
Description of services performed by the Key Personnel (including designation):	
Name of client and Address:	
Name, telephone no. and fax no. of client's representative:	
Estimated capital cost of Project (in Rs. Crore or US\$ million):	
Start date and finish date of the services (month/year):	
Brief description of the Project:	

**Notes:**

1. Use separate sheet for each Eligible Assignment.
2. In the case of Team Leader cum Financial Expert, only those assignments shall be included where substantial portion of the total professional fee received by the firm was on account of the man hours provided by the Team Leader cum Financial Expert.
3. Exchange rate should be taken as Rs. (50) per US \$ for converting to Rupees.

**APPENDIX-1**

**Form -11**

**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  
Certification:

Description of responsibilities

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 my qualifications, my experience and me.

(Signature and name of the Professional)

Place-----

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

**Notes:**

1. Use separate form for each Key Personnel and Professional Personnel.
2. In the case of Team Leader cum Financial Expert, only those assignments shall be included where substantial portion of the total professional fee received by the firm was on account of the man hours provided by the Team Leader cum Financial Expert.
3. The names and chronology of assignments included here should conform to the project-wise details submitted in Form-7 or Form-7A, as the case may be, of Appendix-L
4. Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorized Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.
5. A copy of PAN Card and authenticated Photo ID to be enclosed.

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UT of Puducherry under PPP Mode*

**APPENDIX-1**  
**Form -12**  
Proposal for Sub-Consultant(s)

1. Details of the Firm				
Firm's Name, Address and Telephone				
Name and Telephone No. of the Contact Person				
Fields of Expertise				
No. of years in business in the above Fields				
2. Services that are proposed to be sub contracted:				
3. Person who will lead the Sub- Consultant Name: Designation: Telephone No: Email:				
4. Details of Firm's previous experience				
Name of Work	Name, address and telephone no. of Client	Total Value of Services Performed	Duration of Services	Date of Completion of Services
1.				
2.				
3.				

(Signature and name of the authorized signatory)

**Note:**

1. The Proposal for Sub-Consultant shall be accompanied by the details specified in Forms 10, 10A and 11 of Appendix -I.
2. Use separate form for each Sub-Consultant.

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapetl,  
UT of Puducherry under PPP Mode*

**APPENDIX-II**

**FINANCIAL PROPOSAL**

**Form - 1**

**Covering Letter**

(On Applicant's letter head)

(Date and Reference)

To,

\*\*\*\*\*

\*\*\*\*\*

\*\*\*\*\*

Dear Sir,

**Sub:** Appointment of “Transaction Advisory Consultancy Services for Hotel Pondicherry Ashok – Unit of PAHCL – A Joint Venture Company of India Tourism Development Corporation (ITDC) and Pondicherry Industrial Promotion Development & Investment Corporation Limited (PIPDIC) for development of Tourism Zone at Kalapet Beach, Puducherry I, UT of Puducherry under PPP Mode”

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

I/We agree that this offer shall remain valid for a period of 120 (one twenty) days from the Proposal Due Date or such further period as may be mutually agreed upon.

Yours faithfully,  
(Signature, name and designation of the authorized signatory)

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

*Development of Tourism Zone at  
Hotel Pondicherry Ashok. Kalapet,  
UT of Puducherry under PPP Mode*

**APPENDIX-II**  
(See Clause 2.1.3)

**Form - 2**  
**Financial Proposal**

Item No.	Description	Amount(Rs.)
<b>A. I.1.</b>	Team Leader - Financial Expert	
<b>1.2</b>	Financial Consultant – Firm	
<b>I.2.</b>	Technical Consultant – Firm	
<b>I.3.</b>	Legal Consultant - Firm	
<b>1.4</b>	Surveyor – Firm	
<b>1.5</b>	Tourism Analyst	
<b>1.6</b>	Environment Analyst	
<b>II.</b>	Costs of other Personnel	
<b>B</b>	<b>Sub-total Personnel Costs (A):</b>	
<b>C</b>	Other Expenses,	
<b>D</b>	<b>TOTAL ( B + C )</b>	
<b>E</b>	<b>SERVICE TAX ***</b>	
<b>F</b>	<b>Training &amp; Site Visit **</b>	
<b>G</b>	<b>TOTAL COST OF THE CONSULTANCY (D+E)</b> In Indian Rupees in Figures in Words -----	

\*\* This provision will be paid on actual utilization.

\*\*\* Service Tax will be Paid by the Authority.

**Note:**

1. The financial evaluation shall be based on the above Financial Proposal for the Consultants and the cost of other personnel. The total under Item D shall, therefore, be the amount for purposes of evaluation.

*Development of Tourism Zone at  
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REQUEST FOR PROPOSAL

2. The aforesaid fees payable to the Consultant shall cover the costs of all telephone/fax, reasonable amount of in-house photocopying and stationery and costs of support staff. No additional charges in respect thereof shall be due or payable.
3. Any other charges not shown here are considered included in the man days rate for the Key Personnel.
4. All payments shall be made in Indian Rupees and shall be subject to Indian withholding Taxes.

APPENDIX – II

Form – 3

Estimate of Personnel Costs

ID No.	Position	Name	Man Days Rate (Rs.)	Total Man Days	Amount
<b>AI. Remuneration for Key Personnel (including all personal allowances)</b>					
Total					
<b>II. Remuneration for Support Personnel (including all personal allowances)</b>					
Total					
<b>III. Remuneration for Expatriate Personnel (including all personal allowances)</b>					
Total					

The Authority has proposed to adopt a two stage selection process (collectively the "**Selection Process**") in evaluating the Proposals comprising technical and financial bids to be submitted in two separate sealed envelopes. In the first stage, a technical evaluation will be carried out 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, a financial evaluation will be carried out 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. Selection after being completed shall not be a subject of dispute and cannot be questioned in any forum.

Sl. No	Reports	Particulars	Period in weeks	Payment
1	Inception Report	The report shall enumerate the initial findings, detailed planning of project activities. It shall also describe the methodologies followed for the development of project objectives and deliverables in accordance with the Project Quality Procedure of Reporting.		
2	Market Survey Report with details of demand for commercial units	The report shall analyze the potential of the sites for commercial development adjoining the residential units. Methodology to be adopted for the Project indicating the BEST USE Option Study supported by at least 3 alternate options/ Models of Study.		
3	Land Survey and Soil Investigation Report	The report shall indicate the measurements of all the sites and its computed areas taken with a total Station. The survey details of salient structures and Service Lines in each of the sites shall be listed. The land documents to be analyzed for their validity with respect to actual survey measurements and areas. The soil investigation report shall indicate the sub soil parameters viz level of ground water, Bearing capacity value and nature of soils.		

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4	Independent Report on each site with architectural Models, concept designs with distinct matrix of residential and commercial propositions in each site	<p>Architectural Report comprising of Block Diagrams <b>with a minimum 3 options</b> for each site indicating proportion of Residential and Commercial Areas with tentative cost of Project.</p> <p>The models shall display the potential and demand for the commercial development while meeting the standards of residential accommodation for senior Government Officers.</p>		
5	Legal Due Diligence Report	The Report shall address the Title Related Issues of each of the site with Due diligence for developing the Project on PPP Model.		
6	Feasibility Report with Business Plan	<p>The report shall evolve business strategies in the development of project components concluding project costing, training and recovery of investment. The report shall conclude detailed financial model depicting the standard financial review parameters like project IRR, Equity IRR, DSCR and Sensitivity analysis with the assumption of anticipated risks. The financial plan shall be developed for all the suggested three architectural models and recommend for the best option model.</p> <p>SWOT Analysis of Each Project /Site and Combined Report of All Project sites with Cross subsidization to be included with Tax and Insurance related issues. Project Risk Report as to the Phasing Strategy, Positioning Strategy and the Clientele to be</p>		

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		addressed with associated Risk.  Bidders Perception of the Project and Impact of the Project on Government resources may also be covered.		
7	Project Appraisal Report and Presentation	The Project Appraisal Report and Presentation shall contain the recommendation for the best option model duly explaining the salient features of the above mentioned reports. The Project Appraisal Report & Presentation is to be made to PAHCL/Govt. for its review & approval.		
<b>Total</b>				
<b>&amp; The Actual Weeks consumed will be 12 only as some tasks can move parallel</b>				
8	Pre-qualification document	Preparation of EOI cum RFQ document for the selected project/ projects and modify as per the review and approved by authority		
9	Evaluation Report on Pre-qualification of developers.	Evaluation of RFQ proposals after conducting pre-proposal conference and submission of evaluation report for review and approved by the authority.		
10	RFP document along with draft concession agreement, draft O&M agreement and Maintenance manual for residential quarters	Preparation of RFP for the short-listed developers and submission for review & approved by authority.		
11	RFP evaluation Report	Evaluation of RFP proposals after conducting pre-bid conference and submission of evaluation report for review and approved by authority. <b>Report on each of the site, Due diligence and Analysis of Bidders Estimation of Revenues, their</b>		

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		Financial Model, Revenue Model, and Reasonableness of the Assumptions made, Analysis of Marketing Strategy and Product Mix Design. Presentation on Evaluation of Bids to Project Review Committee and High power committee for Approval.		
12	Final Report on bid process	Final report detailing the salient features of the bid process and concession agreement after Recommendations on signing of concession agreement for approval by authority.		
13	Independent Engineer	RFQ & RFP Including Procurement of Independent Engineer		
14	Project Completion Report	Completion of Services of Bid Process including signing of Concessionary Agreement		
<b>Total</b>				
<b>Grand Total</b>				