

**Request for Proposal for Selection of Developer  
cum Operator of 5 Star Hotel at International  
Exhibition-cum-Convention Center (IECC)  
Pragati Maidan under long term Concession  
Agreement.**

Tendering Authority:



**ITPO** | INDIA TRADE PROMOTION  
ORGANISATION  
A Government of India Enterprise

Licensing Authority:

**SPV (to be incorporated by ITPO before signing of  
Concession Agreement).**

Bid Process Coordinator:



**INTERNATIONAL COMPETATIVE BIDDING (THROUGH E-BIDDING ONLY)**

**FOR SELECTION OF DEVELOPER-CUM-OPERATOR OF 5 STAR HOTEL AS A PART OF INTERNATIONAL EXHIBITION-CUM-CONVENTION CENTRE, PRAGATI MAIDAN**

**PROPOSED PROJECT:**

Pragati Maidan is being re-developed into an International Exhibition-Cum-Convention Center (“IECC”) comprising of convention center and exhibition halls, administration building and basement etc. admeasuring approximately 3,82,000 square meters and is envisioned as a world-class, state of the art exhibition and convention facility being one of the largest facilities of its kind in this part of the world. The IECC is a flagship project of the Government of India and is foreseen as an internationally recognized architectural icon with innovative design and novel green building features. The IECC complex has proposed an exclusive area of 3.70 acres (equivalent to 14973 square meters) at Bhairon Marg (near existing gate no. 1 of Pragati Maidan) with exclusive entry and exit points at Bhairon Marg, allocated for development of a 5 (five) star hotel.

The IECC project includes in-built comprehensive traffic interventions to decongest traffic in and around the Pragati Maidan area which shall ensure that Mathura Road becomes signal free from W Point (ITO) to DPS Mathura Road. A tunnel cutting across Pragati Maidan connecting Purana Qila Road to the Ring Road serving an alternative option to Bhairon Marg is also being implemented simultaneously as part of IECC Project.

**INVITATION FOR PROPOSALS:**

The competent Authority has approved that India Trade Promotion Organization (ITPO), a premier trade promotion agency of the Ministry of Commerce & Industry, Govt. of India, will transfer 3.70 acres of land at Pragati Maidan on 99 years fixed leasehold basis in favor of a Special Purpose Vehicle (SPV) which is being incorporated as a wholly owned subsidiary of ITPO for selecting a suitable developer and operator through a competitive bidding process to construct, run and manage a 5 Star Hotel at Pragati Maidan under a long term Concession Agreement. Pending incorporation of the aforesaid SPV, ITPO has been authorized to initiate this process of inviting applications on behalf of the proposed SPV.

ITPO on behalf of the proposed SPV invites proposals for Selection of Developer cum Concessionaire of 5 Star Hotel at the proposed site under long-term Concession basis.

The request for proposal bearing no ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01 dated 24.02.2020 (“RFP”) can be downloaded free of cost from the website(s): <https://www.mstcecommerce.com/auctionhome/propertysale/index.jsp> , [www.indiatradefair.com](http://www.indiatradefair.com) & <https://eprocure.gov.in>

Bidders are advised to regularly visit above website(s) to keep them updated regarding clarifications/ amendments/time extensions, etc. as all documents and information shall be uploaded on the website only without issue of any further advertisements or notifications.

The site visit is available from 28.02.2020 to 05.03.2020 and the pre-bid meeting is scheduled on 04.03.2020 at 1500 hrs. The last late of submission of initial proposal against the RFP is 18.03.2020 at 15:00 hrs. All details for the proposed project are available in the RFP.

ITPO reserve the right to cancel or modify the bid process without assigning any reasons and without any liability, of whatsoever nature.

This is only a request to submit proposal(s) not an offer.

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### DISCLAIMER

1. *This request for proposal and any other documents and information provided subsequently to the Bidders (defined hereinafter), whether verbally, documentary, or any other form, by or on behalf of Licensing Authority or Tendering Authority or any of their employees or consultants or advisers, is provided to Bidders on the terms and conditions set out in this RFP and such other terms and conditions subject to which such additional documents and information shall be provided, from time to time. In no circumstances shall the Tendering Authority or Licensing Authority, or its employees, officers, directors, advisors, consultants, contractors and/or agents incur any liability arising out of or in respect of the issue of this RFP, or the Bidding Process set out herein.*
2. *This RFP is, or neither an offer nor invitation by Licensing Authority / Tendering Authority or to the prospective Bidders or any other person and no agreement or transaction shall be deemed to be entered into, either oral or in writing, till the Definitive Documents (defined hereinafter) are executed. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Bids, to be submitted pursuant to this RFP. This RFP includes statements, which reflect various assumptions and assessments arrived at by Licensing Authority or Tendering Authority as the case maybe in relation to their business model. The RFP, assumptions, assessments, statements contained herein and any clarifications, amendments, additional information or addenda issued pursuant hereto are only to provide selective summaries of available information and do not purport to contain all the information that each Bidder may require for the purposes of making a decision for participation in this Bidding Process.*
3. *This RFP may not be appropriate for all persons, and it is not possible for Licensing Authority / Tendering Authority, their employees or consultants or advisers to consider the objectives, techno-commercial expertise and particular needs of each Bidder who reads or uses this RFP. This RFP is subject to updating, expansion, revision and amendment at the sole discretion of the Licensing Authority and the Tendering Authority, without the requirement of prior notices to the Bidders or any other person. Each Bidder should, 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 obtains independent advice from appropriate sources.*
4. *The information provided in this RFP to the Bidders is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Licensing Authority and Tendering Authority accept no responsibility for the accuracy or otherwise for any interpretation or opinion on the law expressed herein.*
5. *Whilst the information in this RFP has been prepared in good faith, no reliance shall be placed on any information or statements contained herein, the Licensing Authority or Tendering Authority, their employees, officers, directors, consultants advisors, contractors and its agents make no representation or warranty and shall have no liability to any person including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or*

- suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, 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 and it shall not be assumed that such information or statements will remain unchanged. The Licensing Authority and Tendering Authority also accept no liability of any nature whether resulting from negligence or otherwise caused or arising out of reliance of any Bidder upon the statements contained in this RFP.*
6. *The Licensing Authority or Tendering Authority may in their absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, assessment or assumption contained in this RFP but do not undertake to provide any Bidder with access to any additional information, or to update the information in this RFP or to correct any inaccuracies herein.*
  7. *The issue of this RFP does not imply that Licensing Authority or Tendering Authority is bound to select a Bidder or to appoint the Successful Bidder, as the case may be and Licensing Authority and Tendering Authority reserve the right to reject all or any of the Bids without assigning any reasons whatsoever.*
  8. *The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by Licensing Authority or Tendering Authority or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder, and Licensing Authority or Tendering Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process..*
  9. *This RFP is being made available to the Bidder(s) on the terms set out in this RFP and is confidential. This RFP has not been filed, registered or approved in any jurisdiction. Its possession or use in any manner contrary to any Applicable Law (defined hereinafter) is expressly prohibited. The Bidders shall inform themselves of any applicable legal requirements in respect of this RFP and shall observe the same.*
  10. *The Bidders are expected to read the entire RFP including all annexures and carry out their own diligence, surveys and other investigations before submitting their respective Bids.*
  11. *The Laws of the Republic of India are applicable to this RFP . Courts with competent jurisdiction at New Delhi, India shall have exclusive jurisdiction in relation to any disputes arising out of or in relation to this RFP Document.*
  12. *This RFP is not transferable.*
  13. *The Tendering Authority reserves the right to change, modify, or amend any or all provisions of this RFP. Such revisions to the RFP or amended RFP as the case maybe, will be made available on the e-Bidding portal only. Any reference to the RFP herein shall be deemed to be a reference to the RFP as may be revised by the Tendering Authority.*

## SECTION 1 - DEFINITIONS AND PRINCIPLES OF INTERPRETATION

### 1.1 Definitions

In this RFP and any subsequent corrigendum, addendum or agreement unless the context otherwise requires, the following words and expressions shall bear the meanings ascribed to them below. Capitalized terms used but not defined shall have the same meaning as ascribed to them under the Concession Agreement (as provided in **Annexure 3**).

- 1.1.1. **"Applicable Law"** shall mean shall mean all applicable laws, by-laws, rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any Governmental Authority or Person acting under the authority of any Governmental Authority and / or of any statutory authority in the Republic of India and specifically including the National Capital Territory of Delhi, whether in effect on the date of this RFP or thereafter
- 1.1.2. **"Authorized Representative"** shall have the meaning ascribed to it in Section 8.2.2.4.
- 1.1.3. **"Bid"** shall collectively mean (i) the Initial Bid including the Technical Offer and Variable Fee parameter; (ii) the Bid Security; (iii) the Bid(s) in e-Auction; and (iv) supporting documents, submitted by a Bidder, in accordance with the terms and conditions of this RFP.
- 1.1.4. **"Bidder"** shall mean a single entity or a Consortium for the purpose of submitting a Proposal/Bid/Tender.
- 1.1.5. **"Bid Due Date"** shall mean last date of submission of Initial proposal(s) as per section 7.1;
- 1.1.6. **"Bid Security"** have the meaning ascribed to it in Section 3.3;
- 1.1.7. **"Bidding Process"** shall mean the two-stage process for selection of the Successful Bidder, as more specifically set out in Section 7;
- 1.1.8. **"Consortium"** shall mean the group of individuals, partnerships, companies, or combination thereof coming together as a consortium for the purpose of submitting a Proposal;
- 1.1.9. **"Coercive Practice"** means impairing or harming, or threatening to impair or harm, directly or indirectly, any Person or property to influence any Person's participation or action in the Bidding Process or the issuance of the Letter of Award or the execution of the Definitive Documents.
- 1.1.10. **"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 Bidding Process. For avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Bidder who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the Letter of Award or has dealt with matters concerning the Definitive Documents or arising there from, before or after the execution thereof, at any time prior to the expiry of one (1) year from the date such official resigns or retires from or otherwise ceases to be in the service of the Bidder, shall be deemed to constitute influencing the actions of a Person connected with the Bidding Process.
- 1.1.11. **"Damages"** shall have the meaning ascribed to it in Section 1.2(a)(xxi);
- 1.1.12. **"Definitive Documents"** shall mean collectively the (i) Letter of Award; (ii) Concession Agreement and (iii) such other agreements and documents, to be entered into, in accordance with this RFP;
- 1.1.13. **"Eligibility Conditions"** shall mean all the eligibility conditions listed in Section 7.2;

- 1.1.14. **"Evaluation Committee"** shall mean such committee as may be constituted for the purposes of evaluation under Section 8.3.6;
- 1.1.15. **"FAR"** shall have the meaning ascribed to it Section 2.1(H);
- 1.1.16. **"Variable Fee parameter" or "Financial Bid" or "Initial Price Offer", used interchangeably, shall comprise of the variable fee parameter to be quoted by the bidder in initial proposal stage and e-Auction stage as per terms of this RFP;**
- 1.1.17. **"Financial Year"** shall have the meaning ascribed to it under the Companies Act, 2013.
- 1.1.18. **"Force Majeure"** shall have the meaning ascribed to it in Section 3.7;
- 1.1.19. **"Governmental Authority"** shall mean shall mean any government authority, statutory authority, government department, agency, commission, board, tribunal or court or other law, rule or regulation making entity having or purporting to have jurisdiction on behalf of the Republic of India or any state or other subdivision thereof or any municipality, district or other subdivision thereof, including the development authority and municipal/local authority having jurisdiction over the Land earmarked for the Hotel and Hotel Premises, as applicable
- 1.1.20. **"Hotel Premises" or "Hotel Site"** shall mean shall have the meaning ascribed to it in Section 2.1;
- 1.1.21. **"Hotel Premises"** shall mean the collective reference to the Land earmarked for the Hotel along with the construction of the hotel premises to be developed and operated by the Concessionaire in terms of this RFP and the Concession Agreement;
- 1.1.22. **"IECC"** shall have the meaning ascribed to it in Section 2.1(a);
- 1.1.23. **"Integrity Pact"** shall have the meaning ascribed to it in Section 3.9;
- 1.1.24. **"Joint Bidding Agreement"** have the meaning ascribed to it Section 7.1.1.7;
- 1.1.25. **"Lead Member"** shall mean the member of the Consortium who is in-charge of such Consortium for the purposes set out in this RFP;
- 1.1.26. **"Concession"** shall have the meaning ascribed to it in Section 2.2;
- 1.1.27. **"Concession Agreement"** shall have the meaning ascribed to it in Section 2.1;
- 1.1.28. **"Licensing Authority"** shall mean the SPV to be constituted by India Trade Promotion Organization, a public sector undertaking under the Ministry of Commerce and Industry, Government of India;
- 1.1.29. **"Letter of Award"** shall have the meaning ascribed to it in Section 7.4;
- 1.1.30. **"Operationalization"** shall mean when atleast 150 rooms and suites, of the Hotel Premises, are opened for stay to prospective guests;
- 1.1.31. **"Performance Guarantee"** shall have the meaning ascribed to it in Section 5;
- 1.1.32. **"Proposal"** shall have the meaning ascribed to it in Section 3.1(a);
- 1.1.33. **"RFP"** shall mean this request for proposal bearing no **ITPO/MSTC/Concession for 5-Star Hotel/RFP/20-21/01** issued by the Tendering Authority;
- 1.1.34. **"RFP Fee"** shall have the meaning ascribed to it in Section 3.3;
- 1.1.35. **"Successful Bidder"** shall have the meaning ascribed to it in Section 7.3;
- 1.1.36. **"Technical Bid"** shall have the meaning ascribed to it in Section 7.3;
- 1.1.37. **"Technically Qualified Bidders"** shall mean the Bidders who are found to be eligible in accordance with the prescribed Eligibility Conditions and whose Technical Bids meet the requirements under this RFP;
- 1.1.38. **"Tendering Authority"** shall mean India Trade Promotion Organization, a Government of India enterprise.
- 1.1.39. **"Undesirable Practice"** means: establishing any contact by any means whatsoever, directly or indirectly, with or without the use of any Coercive Practice, with any Person or Persons connected with or employed or engaged by the Bidder, with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding

Process, the selection or non-selection of a Bidder, the issuance of the Letter of Award or the execution of the Definitive Documents; or violation of any Applicable Law.

## 1.2 Principles of interpretation

### a) Unless the context of this RFP otherwise requires:

- (i) references to any legislation or any provision thereof shall include amendment or re-enactment or consolidation of such legislation or any provision thereof so far as such amendment or re-enactment or consolidation applies or is capable of applying to any transaction entered into hereunder;
- (ii) references to laws of India or Indian law or regulation having the force of law shall include the laws, acts, ordinances, rules, regulations, bye laws or notifications which have the force of law in the territory of India and as from time to time may be amended, modified, supplemented, extended or re-enacted;
- (iii) references to a "person" and words denoting a natural person shall be construed as a reference to any individual, firm, company, corporation, society, trust, government, state or agency of a state or any association or partnership (whether or not having separate legal personality) of two or more of the above and shall include successors and assigns;
- (iv) the table of contents, headings or sub-headings in this RFP are for convenience of reference only and shall not be used in, and shall not affect, the construction or interpretation of this RFP;
- (v) the words "include" and "including" are to be construed, without limitation and shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases;
- (vi) references to "construction" include, unless the context otherwise requires, investigation, design, developing, engineering, procurement, delivery, transportation, installation, processing, fabrication, testing, commissioning and other activities incidental to the construction, and "construct" shall be construed accordingly;
- (vii) any reference to any period of time shall mean a reference to that according to Indian Standard Time;
- (viii) any reference to a day shall mean a reference to a calendar day;
- (ix) references to a "business day" shall be construed as a reference to a day (other than a Sunday) on which banks in Delhi are open for business;
- (x) any reference to month shall mean a reference to a calendar month as per the Gregorian calendar;
- (xi) references to any date or period shall mean and include such date, period as may be extended pursuant to this RFP;
- (xii) any reference to any period commencing "from" a specified day or date and "till" or "until" a specified day or date shall include both such days or dates; provided that if the last day of any period computed under this RFP is not a business day, then the period shall run until the end of the next business day;
- (xiii) the words importing singular shall include plural and vice versa;
- (xiv) references to any gender shall include the other and the neutral gender;
- (xv) "lakh" means a hundred thousand (100,000) and "crore" means ten million (10,000,000);
- (xvi) "indebtedness" shall be construed so as to include any obligation (whether incurred as principal or surety) for the payment or repayment of money, whether present or future, actual or contingent;

- (xvii) references to the "winding-up", "dissolution", "insolvency", or "re-organization" of a company or corporation shall be construed so as to include any equivalent or analogous proceedings under the law of the jurisdiction in which such company or corporation is incorporated or any jurisdiction in which such company or corporation carries on business including the seeking of liquidation, winding-up, reorganization, dissolution, arrangement, protection or relief of debtors; any reference at any time to any RFP, Concession Agreement, instrument, license or document of any description shall be construed as reference to that RFP, Concession Agreement, instrument, license or other document as amended, varied, supplemented, modified or suspended at the time of such reference; provided that this sub-clause shall not operate so as to increase liabilities or obligations of the Licensing Authority or Tendering Authority hereunder or pursuant hereto in any manner whatsoever;
- (xviii) any RFP, consent, approval, authorization, notice, communication, information or report required under or pursuant to this RFP from or by any Party shall be valid and effective only if it is in writing under the hand of a duly authorized representative of such Party or, as the case may be, in this behalf and not otherwise;
- (xix) the Schedules and Recitals to this RFP form an integral part of this RFP and will be in full force and effect as though they were expressly set out in the body of this RFP;
- (xx) references to recitals, articles, clauses, sub-clauses or schedules in this RFP shall, except where the context otherwise requires, mean references to recitals, articles, clauses, sub-clauses and schedules of or to this RFP and references to a Paragraph shall, subject to any contrary indication, be construed as a reference to a Paragraph of this RFP or of the schedule in which such reference appears; and
- (xxi) the damages payable by either Party to the other as set forth in this RFP or subsequent Concession Agreement, whether on per diem basis or otherwise, are mutually agreed genuine pre-estimated loss and damage likely to be suffered and incurred by the Party entitled to receive the same and are not by way of penalty (the "Damages").

## SECTION 2 - INTRODUCTION

### 2.1 Project Introduction:

- a) Pragati Maidan, a landmark venue for large exhibitions and conventions in New Delhi, with 65,000 sq. meters of existing exhibition space, is now being re-developed into an International Exhibition-cum-Convention Center (“IECC”) admeasuring approximately 3,82,000 square meters comprising of convention center and exhibition halls, administration building and basement and is envisioned as a world-class, transit-oriented, mixed use district, providing one of the largest facilities of its kind in India and Asia. IECC is a flagship project of Government of India and is foreseen as an internationally recognized architectural icon with innovative design and novel green building features. The proposed development of IECC will comprise of a world class iconic convention center which will be used to host international summits like G20, Conferences and events as also the largest exhibition center in Delhi and Northern India and will be owned and managed by the Tendering Authority.
- b) Tendering Authority is holding directly or indirectly about 90 (Ninety) events in Pragati Maidan annually including the India International Trade Fair (IITF). The number of events is likely to significantly go up in coming years on completion of this world class complex.
- c) Pragati Maidan is flanked by Mathura Road to its West and Bhairon Road on the South. The main railway line to Central and Southern India run to its east. Pragati Maidan is situated in Central Delhi and is directly connected to India Gate and Purana Qila Road. Metro Station and Pragati Maidan Bus Terminal are located adjacent to Pragati Maidan.
- d) The design of the IECC comprises of an iconic convention center and exhibition halls. Considerations have been made by the use of environment friendly materials to achieve green building features. The overall layout of the IECC includes convention center, exhibition halls, restaurants, business center, and open exhibition space with parking in the basement. The end use of 3.70 acres of land at Pragati Maidan given in the RFP is for construction of a 5-star hotel as per applicable norms.
- e) The layout of IECC including a hotel site of 3.70 acre on Bhairon Marg (near existing gate no 1) (“Land earmarked for the Hotel”) with exclusive entry and exit points has been approved (the layout of the campus is annexed hereto and marked as Annexure 4) by the Delhi Urban Art Commission and the South Delhi Municipal Corporation. The Ministry of Railways, Government of India has given its clearance to the IECC project including the Land earmarked for the Hotel for construction of buildings within 30 (thirty) meters of the railway boundary, subject to verification of land. It must be noted that the issue relating to verification of land has since been settled at the appropriate level in Government of India. NOC may still be required from Railways as part of Hotel project as in case of other statutory/ non-statutory approvals. The site earmarked for Hotel is within the boundaries of land allotted to ITPO by the Land & Development Office (L&DO) – Ministry of Housing and Urban Affairs. The use of the IECC at Pragati Maidan, including for the Land earmarked for the Hotel, is permitted under the modifications in the said Master Plan for Delhi-2021 as set out in notification dated May 26, 2016 bearing no. S.O. 1901(E).
- f) The approved layout plan by South Delhi Municipal Corporation (SDMC) has already been uploaded along with the RFP with setbacks clearly demarcated. Setbacks norms applicable as per MPD-2021 for the entire master plan shall be applicable for this Land earmarked for the Hotel.
- g) The IECC project has in-built comprehensive traffic interventions to decongest traffic in and around Pragati Maidan which shall ensure Mathura Road being signal free from W Point (ITO) to Delhi Public School (DPS) Mathura Road. A tunnel cutting across Pragati Maidan is being made connecting Purana Qila Road to Ring Road serving as an alternative option to Bhairon

Marg. The detailed traffic interventions are as below: -

- a. Construction of tunnel connecting Purana Qila Road to Ring Road through Pragati Maidan. Direct access from this tunnel has been provided to the basement parking of IECC. Access has also been provided from Mathura Road to this tunnel.
  - b. Mathura Road has been made signal free from W Point (ITO) to DPS Mathura Road. An underpass has been provided at Purana Qila Road for traffic going towards DPS-Mathura Road. An access has been provided from this underpass to the traffic going towards Bhairon Marg.
  - c. An underpass has been provided at Sundar Nagar and signal free U-turns have been provided at Sundar Nagar and Supreme Court. Access from the underpass at Supreme Court has been provided to the basement parking of IECC.
  - d. A separate underpass has been provided at the junction of Bhairon Marg and Ring road junction for traffic going towards Ring Road and Ashram.
  - e. Direct signal free entry and exit to the Pragati Maidan parking from Bhairon Marg.
- h) The site identified for Hotel Premises within the IECC complex that is the Land earmarked for the Hotel shall have a floor area ratio ("FAR") of 3.75 (three point seven five) and ground coverage of upto 60% (sixty percent). Any future increase in FAR or ground coverage relating to the Hotel Premises will belong to Licensing Authority and not to the Successful Bidder/Operator.
- i) System generated auto assessment for height clearance in respect of Pragati Maidan, Mathura road, New Delhi is enclosed as Annexure-A. It may be seen that permitted top elevation is 330.00 mtrs. with site elevation as 205.45 mtrs.
- j) The Concession Agreement for the Land earmarked for the Hotel will be signed by the Licensing Authority and Successful Bidder or a special purpose company of the Successful Bidder, as the case may be, as a 60 (sixty) year Concession ("Concession Agreement") and that the Licensing Authority shall have the option to have another Concession Agreement for 39 years after expiration of the period of 60 years by the licensing authority through a competitive bidding process with the right of first refusal to the existing Concessionaire on date of expiration of 60 years.

## 2.2 Objective of this RFP:

- a) The Tendering Authority, on behalf of the Licensing Authority, is hereby inviting proposals from eligible bidders with the objective of selecting a Successful Bidder for award of the Concession to develop, construct, run and manage a hotel property at the Land earmarked for the Hotel.
- b) The Tendering Authority has adopted a 2 (two) stage competitive e-Bidding process (to be conducted as per the terms specified in this RFP), for selection of a Successful Bidder for award of Concession in accordance with the terms and conditions specified herein.
- c) The first stage of the e-Bidding process involves qualification of Bidders who meet the Eligibility Conditions and submit their initial offer(s) in accordance with the provisions of this RFP. The Technical Bids will be submitted only on the e-Bidding portal.
- d) In the Initial Offer, the Bidders shall be required to submit, inter alia, their Technical Bids, initial price offer, RFP Fee and the Bid Security by the Bid Due Date, in the manner set out in this RFP.
- e) For the purposes of evaluating the Technically Qualified Bidders, the Tendering Authority may, inter alia, ask for any details, clarifications or any other information, to be submitted in writing, based on information submitted by the Bidders for the purposes of evaluating their Technical Bids.

- f) Only those Bidders who are found to be eligible in accordance with the prescribed Eligibility Conditions of this RFP and whose Technical Bids meet the requirements under this RFP shall be considered as the Technically Qualified Bidders.
- g) Only the Technically Qualified Bidders shall be eligible for their opening of their initial price offer and subsequent participation in the second stage of the Bidding Process (e-Auction) on the e-Bidding portal. No physical bids shall be submitted or considered in any stage of the online Bidding Process.
- h) Subject to the terms set out in this RFP, the Technically Qualified Bidder submitting the highest Initial price offer/Financial Bid/Variable Fee parameter bid among the Technically Qualified Bidders in Initial offer stage and/or e-Auction stage as the case may be shall be declared as the Successful Bidder.
- i) The Concession Agreement shall be executed between Licensing Authority and the Successful Bidder upon fulfillment of conditions as stipulated herein.
- j) It is specified herein that Land earmarked for the Hotel will be used only for construction and operation of a 5 (five) Star Hotel and not for any other purpose. The Successful Bidder and the special purpose company so formulated, if any, shall not be permitted to further sub-license the Hotel Premises or any structure thereon in full or in parts. Any violation in this regard shall lead to cancellation of the Concession Agreement. However, leasing of commercial and retail space will be permissible as per the norms prescribed by Ministry of Housing and Urban Affairs/ Development Authority only after Operationalization of the Hotel Premises.

## SECTION 3 - SCOPE OF THE RFP

### 3.1 Proposal Details:

- a) The Bidders are invited to submit initial proposals and e-auction proposals (collectively referred to as the "Proposal/Bid") as specified in this RFP, for the Concession. The Proposal will form the basis for signing the Concession Agreement with the Successful Bidder by the Licensing Authority.
- b) The Bidder shall submit the Proposal in the form and manner specified in this RFP.
- c) The Successful Bidder deemed as "Concessionaire" of the Hotel Premises shall undertake the development, construction, operation and management of the Hotel Premises and associated facilities and such other obligations as set out in and in accordance with the RFP.
- d) The successful bidder is allowed to bring a professional third party for operation & management of the hotel, without provision for sub-licensing/sub-leasing. (Regarding engagement of Professional Brand by the Operator it is clarified that Operator cannot lease/sublease/license/sub-license the Hotel to any brand/company/or any other entity, however they may engage any agency/company/brand for day to day operations and management of the Hotel. This clause does not prejudice subletting or sub leasing of retail/commercial space within the hotel premises)
- e) Bidders are advised to familiarize themselves with local conditions and take them into account in preparing their Proposals.
- f) The Tendering Authority shall timely provide, at no cost to the Bidder, relevant project data and reports available with the Tendering Authority, in case request for such information / data is received upto the last date of submission of queries as mentioned in section 7. However, for avoidance of doubt, it is hereby clarified that the data and information provided under the RFP, or to be provided by the Tendering Authority to the Bidders later, is only indicative and solely for the purposes of rendering assistance to the Bidders towards preparation of their Proposals. The Bidders are hereby advised to undertake their own due diligence, to their complete satisfaction before placing reliance on any such data or information furnished or to be provided later by the Tendering Authority and its consultants, advisors.
- g) The Bidders shall bear all costs associated with the preparation and submission of their Proposals, and their participation in the Bidding Process, including but not limited to postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by Tendering Authority or any other costs incurred in connection with or relating to its Proposal. The Tendering Authority is not bound to accept any Proposal and reserves the right to annul the Bidding Process at any time prior to declaration of the Successful Bidder, without incurring any liability to the Bidders.
- h) In case tendering authority annuals, the bidding process at any time prior to declaration of successful bidder, the bid security of the bidders shall be refunded within 7 working days without any interest on the bid security.

### 3.2 Sale of the RFP and Site Visits

- a) The RFP document can be downloaded from the website(s): <https://www.mstcecommerce.com/auctionhome/propertysale/index.jsp>, <https://www.indiatrdefair.com> & <https://eprocure.gov.in> free of cost.
- b) Site visits to the Land earmarked for the Hotel shall be scheduled from 28.02.2020 to 05.03.2020 in between 10:30 hours (Indian Standard Time) to 16:00 hours (Indian Standard Time).
- c) The site visit to the Land earmarked for the Hotel shall be coordinated by Tendering

Authority. The Bidders shall submit their request for a site visit to Tendering Authority on the following email address: -

- i. s-azad@itpo.gov.in
- ii. cpandey@itpo.gov.in
- iii. amritchitranshan@itpo.gov.in
- iv. saurabhsharma@itpo.gov.in

- d) The e-mail should clearly bear the following subject line: "Site Visit for Hotel Site at IECC".
- e) Once the Tendering Authority confirms the dates of such site visit, the Bidders may undertake the site visit to the Land earmarked for the Hotel at their own expense, cost, liability and risk to ascertain for themselves the site conditions, area, location, facilities, and any other matters considered relevant by them.
- f) This RFP does not, however, give an unconditional or unrestricted right to access the Land earmarked for the Hotel to the Bidders.

### 3.3 RFP Fee and Bid Security

- a) As a part of the Proposal the interested Bidders will have to pay a non-refundable amount of INR 1,00,000 (Rupees one lakh only) plus Goods & Services Tax @ 18% (Eighteen Percent) as non-refundable processing fee ("RFP Fee") for the RFP through e-bidding portal's electronic payment gateway, details of which are provided in Annexure 7.
- b) The Bidder shall be required to submit bid security amounting to INR 10,00,00,000 (Rupees ten crore only) through e-payment via e-Bidding portal's electronic payment gateway ("Bid Security") at the time of RFP submission. Proposals received without specified bid security will be summarily rejected.
- c) Tendering/Licensing Authority will not be liable to pay any interest on the bid security. Bid security of unsuccessful bidders shall be returned, without any interest within 7 days of signing the Concession Agreement with the successful bidder.
- d) In case the selection process is cancelled by Tendering Authority/Licensing Authority the Bid Security of all bidders will be returned without any interest within 15 days of such cancellation.
- e) *The bid security of the successful bidder will be returned after signing of Concession Agreement and after receipt of performance guarantee.*
- f) The Licensing Authority / tendering authority will be entitled to forfeit and appropriate the Bid Security as loss and damage payable to the Licensing Authority / tendering authority in regard to the RFP, without prejudice to any other right or remedy available to the Licensing Authority / tendering authority, under the following conditions:
  - a. If any bidder withdraws its Proposal from further participation after last date-time of submission of initial proposals and/or during the period of validity as specified in this RFP and as extended by the Licensing Authority / Tendering authority from time to time;
  - b. In the case of the Selected bidder, if the bidder fails to sign the Agreement, or provide the Performance Security within the specified time limit (it is clarified that there will be no claims on or forfeiture of the Bid Security by the Tendering Authority /Licensing Authority should the Agreement remain unsigned for no fault of the bidder);
  - c. If the bidder commits any breach of terms of this RFP or is found to have made a false representation to the Licensing Authority / Tendering authority;
  - d. If any bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as envisaged under this RFP

### 3.4 Bid Validity

- a) The Bids shall be valid for a period of 180 (one hundred eighty days) days from the date of opening of the Bid. If it becomes necessary the Tendering Authority may request the Bidders to extend the validity of the Bid beyond 180 (one hundred eighty days) days. All other bids shall cease to be valid once successful bidder is announced.

### 3.5 Bid Submission

- a) The prospective Bidders shall submit the Bid through e-Bidding only on <https://www.mstcecommerce.com/auctionhome/propertysale/index.jsp> as per details available in Annexure 7.
- b) Bidders may seek clarification on this RFP as per the timelines given in Section 5. Any request for clarification must be sent by standard electronic means (PDF or word file) to the email address: \_\_\_\_\_
- c) All the clarifications in the pre-bid meeting shall be uploaded on the website (s) <https://www.mstcecommerce.com/auctionhome/propertysale/index.jsp> , [www.indiatrdefair.com](http://www.indiatrdefair.com) & <https://eprocure.gov.in>

### 3.6 Language and Law Governing the RFP

- a) English shall be the binding and controlling language for all matters relating to the meaning or interpretation of this RFP and any subsequent contracts. This RFP, its meaning and interpretation, and the relation between the Bidder(s) shall be governed by the Applicable Laws. The Bidder should submit the Proposal and all correspondences, supporting documents in English language only.

### 3.7 Force Majeure

- a) The expression "**Force Majeure**" or "**Force Majeure Event**" shall, save and except as expressly provided otherwise, mean occurrence of any or all the below set events, if (a) it affects the ability of the Tendering Authority, Licensing Authority or the Bidder, claiming the benefit of Force Majeure (the "**Affected Party**") to perform its obligations under this RFP, (b) is beyond the reasonable control of the Affected Party, and (c) the Affected Party could not have prevented or overcome by exercise of due diligence and following good industry practice:
  - a. act of God, epidemic, extremely adverse weather conditions, lightning, earthquake, landslide, cyclone, flood, volcanic eruption, chemical or radioactive contamination or ionizing radiation, fire or explosion (to the extent of contamination or radiation or fire or explosion originating from a source external to the Hotel Premises);
  - b. compulsory acquisition in public interest or expropriation of the Land earmarked for the Hotel or Hotel Premises or rights of the Concessionaire;
  - c. an act of war (whether declared or undeclared), invasion, armed conflict or act of foreign enemy, riot, insurrection, terrorist or military action, or
  - d. any event or circumstances of a nature analogous to any of the foregoing.
- b) Upon occurrence of a Force Majeure Event, the Affected Party shall by notice report such occurrence to the other party forthwith. Any notice pursuant hereto shall include full particulars of:
  - a. the nature and extent of each Force Majeure Event which is the subject of any claim for relief under this Section with evidence in support thereof;
  - b. the estimated duration and the effect or probable effect which such Force Majeure Event is having or will have on the Affected Party's performance of its obligations under the RFP or the Concession Agreement;

- c. the measures which the Affected Party is taking or proposes to take for alleviating the impact of such Force Majeure Event; and
  - d. any other information relevant to the Affected Party's claim.
- c) The Affected Party shall not be entitled to any relief for or in respect of a Force Majeure Event unless it shall have notified the other party of the occurrence of the Force Majeure Event as soon as reasonably practicable, and in any event no later than 2 (two) days after the Affected Party knew, or ought reasonably to have known, of its occurrence, and shall have given particulars of the probable material effect that the Force Majeure Event is likely to have on the performance of its obligations under this Concession Agreement . For avoidance of any doubt, the giving of a notice of Force Majeure by any Party to the other Party shall not automatically constitute Force Majeure.
- d) For so long as the Affected Party continues to claim to be materially affected by such Force Majeure Event, it shall provide the other Party with regular (at least weekly) reports containing information as required above, and such other information as the other Party may reasonably request the Affected Party to provide.
- e) If any Force Majeure Event occurs after the execution of the Concession Agreement , whereupon the Successful Bidder is unable to perform its obligations under the Concession Agreement for an aggregate period exceeding 60 (sixty) days in a Financial Year during the subsistence of each such Force Majeure Event, the term of the Concession Agreement shall be extended by a period, equal in length to the period during which the Successful Bidder was unable to perform its obligations due to such Force Majeure Event.
- f) Upon occurrence of any Force Majeure Event, the parties shall bear their respective costs and no party shall be required to pay to the other Party any costs thereof.
- g) Save and except as expressly provided in this Section, neither party shall be liable in any manner whatsoever to the other party in respect of any loss, damage, cost, expense, claims, demands and proceedings relating to or arising out of occurrence or existence of any Force Majeure Event or exercise of any right pursuant hereto.
- h) If a Force Majeure Event subsists for a continuous period of 180 (one hundred eighty) days or more, either party may in its discretion terminate this Concession Agreement by issuing a termination notice to the other Party without being liable in any manner whatsoever for, and upon issue of such termination notice, this Concession Agreement shall, notwithstanding anything to the contrary contained herein, stand terminated forthwith; provided that before issuing such termination notice, the party intending to issue the termination notice shall inform the other party of such intention and grant 15 (fifteen) days' time to make a representation, and may after the expiry of such 15 (fifteen) days period, whether or not it is in receipt of such representation, in its sole discretion issue the termination notice.
- i) If the Affected Party is rendered wholly or partially unable to perform its obligations under this Concession Agreement because of a Force Majeure Event, it shall be excused from performance of such of its obligations to the extent it is unable to perform on account of such Force Majeure Event; provided that:
- i. the suspension of performance shall be of no greater scope and of no longer duration than is reasonably required by the Force Majeure Event;
  - ii. the Affected Party shall make all reasonable efforts to mitigate or limit damage to the other party arising out of or as a result of the existence or occurrence of such Force Majeure Event and to cure the same with due diligence; and
  - iii. when the Affected Party is able to resume performance of its obligations under this Concession Agreement, it shall give to the other party notice to that effect and shall promptly resume performance of its obligations hereunder.

### 3.8 Acknowledgement by the Bidder

It shall be deemed that by submitting the Proposal the Bidder has:

- a. Made a complete and careful examination of RFP;
- b. Received and updated itself of all relevant information required from Tendering Authority;
- c. Accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of Tendering Authority;
- d. Satisfied itself about all matters, things and information necessary and required for submitting an informed Bid and performance of all its obligations there under;
- e. Acknowledged that it does not have a conflict of interest with the Licensing Authority;
- f. Agreed to be bound by the undertakings provided by it in terms hereof and keep the Licensing Authority indemnified in terms of the undertakings so given; and
- g. Acknowledged and confirmed that the Tendering 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 Bidding Process including error or mistake therein or in any information or data given by Tendering Authority.

### 3.9 Integrity Pact

- a. The Bidders are required to furnish a signed and stamped copy of the Integrity Pact as set out in Annexure 5 at the time of submission of the Proposal. All clauses of the Integrity Pact shall be applicable on the Bidders and shall be deemed to be incorporated in the RFP and subsequent contracts thereto.

### 3.10 Government of India

- a. The Bidders recognize and accept that Government of India is not a party to the contract in any manner whatsoever and that Licensing Authority shall enter into the Concession Agreement with the Successful Bidder in its own right as a distinct corporate entity and that Government of India does not have any liability whatsoever in respect of or arising out of this RFP and any subsequent contracts.

### 3.11 Event of Default (Re-entry Clause)

By submitting the bid, the bidder accepts and acknowledge the following conditions/clauses providing details about event(s) of default as provided in the Concession Agreement. Any one of the following shall be deemed to be a "Event of Default" unless the default has occurred as a result of a Force Majeure Event:

All clauses below carry meaning and context as per definitions provided in the Concession Agreement, which forms a part of this RFP. The clauses have been provided here only for reference purpose: "

- a. Breach of any of the terms of the RFP Document by the Concessionaire;
- b. Failure on the part of the Concessionaire to make payment of ground License Fee or other charges payable to the Licensing Authority within 7 (seven) days from the date it is due and payable;
- c. Failure of the Concessionaire to comply with the timelines for the development related Parameters as set out in this agreement;
- d. Any use of the Hotel Premises in violation of Applicable Laws, the RFP Documents or this CONCESSION AGREEMENT as set out in Clause 8.4(a);
- e. Failure of the Concessionaire to provide the electricity bill(s), water bill(s) and income tax return certified by the statutory auditor and any other documents as deemed fit by the Licensing Authority to confirm that the Hotel Premises is operational at the end

- of each Financial Year within a period of 6 (six) month of the end of the relevant Financial Year, after Operationalization of the Hotel Premises, for 3 (three) consecutive years for any reason whatsoever, as set out in this agreement ;
- f. In case the Licensing Authority determines that the Concessionaire has, directly or indirectly, or through any Person, engaged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice and/or Restrictive Practice in the bidding process under the RFP, the issuance of the Letter of Award or the execution of this CONCESSION AGREEMENT a set out in Clause 15.1;
  - g. Breach of any of the covenants or representations and warranties by the Concessionaire, which if capable of being cured are not cured within a period of 30 (thirty) days from the date of such breach;
  - h. Misrepresentation by the Concessionaire, either under this CONCESSION AGREEMENT or under any other documents submitted by the Concessionaire to the Licensing Authority, is made or discovered or If it comes to the notice of the Licensing Authority that the Concessionaire has given an incorrect/ inaccurate/ misleading information or has made any misrepresentation, or suppressed any material information/ facts;
  - i. If the Concessionaire does not provide to the Licensing Authority, within the time specified under this CONCESSION AGREEMENT, any information required to be provided by it to the Licensing Authority or as may have been sought by the Licensing Authority;
  - j. If any act or omission of the Concessionaire results in violation of or non-compliance with any Applicable Law, Applicable Permit, this CONCESSION AGREEMENT or the RFP Document, or any other document referred therein or issued pursuant thereto;
  - k. If an attachment or restraint has been levied on the assets and/or property of the Concessionaire and such attachment or restraint has not been discharged or stayed within a period of 30 (thirty) days of the date of such attachment or restraint.
  - l. Any Government Authority shall have acquired, nationalized, appropriated, confiscated, seized, assumed custody or control of or otherwise expropriated all or any property of the Concessionaire or shall have assumed custody or control of the Concessionaire.
  - m. If the Concessionaire takes any step to initiate a voluntary proceeding or if any involuntary proceeding against it has been commenced, under any applicable bankruptcy, insolvency, winding up or other similar law (including those relating to sick companies) now or hereafter in effect, or consents to the entry of an order for relief in an involuntary proceeding under any such law, or consents to the appointment or taking occupation by a trustee, administrator, manager, assignee (or similar official) for any part of its assets or property;
  - n. The Concessionaire is unable to pay its debts or presumed or deemed unable to pay its debts or takes any steps or suffers any actions in relation to protection or relief of debtors, arrangement with creditors, or moratorium / suspension of payments to creditors or any equivalent or analogous proceedings or actions;
  - o. Performance Guarantee/Security Deposit provided by the Concessionaire has lapsed;  
or
  - p. The Concessionaire ceases to carry on its business, including the business of constructing, developing operating and managing the Hotel Premises, for a continuous period of 30 (thirty) days or more, without obtaining the prior written permission from the Licensing Authority.

Consequences of a Concessionaire Event of Default

- q. On the occurrence of a Concessionaire Event of Default, Licensing Authority may give a notice in writing to the Concessionaire for remedying the breach and if the Concessionaire fails to do so within a period of 15 (fifteen) days from the date of such notice, the Licensing Authority may terminate this CONCESSION AGREEMENT without giving any further notice. This shall be without prejudice to such other rights the Licensing Authority shall have under, this CONCESSION AGREEMENT, the RFP Documents or Applicable Laws;
- r. In addition to the right to terminate the CONCESSION AGREEMENT and other rights and remedies available under Applicable Law or under this CONCESSION AGREEMENT, upon occurrence of a Concessionaire Event of Default, the Licensing Authority shall be entitled to;
  - a. adjust and appropriate the any unpaid License Fee and accrued interest thereon;
  - b. recover any unpaid License Fee and accrued interest thereon and all other amounts due and payable by the Concessionaire under this CONCESSION AGREEMENT but remaining unpaid, including by way of encashing/ appropriating the Performance Guarantee against such unpaid amounts (if applicable at such time); and
  - c. seal the Hotel Premises.
- s. Termination of the CONCESSION AGREEMENT due to Concessionaire Event of Default shall inter alia have the following consequences in addition to those mentioned in Clause 3.3 above:
  - a. Disqualification of the Concessionaire from bidding for any auction or allotment conducted by the Licensing Authority for a period of 1 (one) year starting from the date of occurrence of such Concessionaire Event of Default. This shall be without prejudice to such other rights the Licensing Authority shall have under the RFP Document or other law of otherwise;
  - b. All permissions granted by the Concessionaire to any Person to use or occupy any part of the Hotel Premises in accordance with the terms of this CONCESSION AGREEMENT shall be deemed to have been withdrawn and revoked with immediate effect and the Concessionaire shall ensure that all such Persons shall immediately vacate the Hotel Premises;
  - c. The Licensing Authority shall be entitled to restrain the Concessionaire and any Person claiming through or under the Concessionaire from entering upon the Hotel Premises or any part thereof; have the right to appoint an entity to undertake operation and maintenance of the Hotel Premises.
  - d. In addition to the right to recover unpaid License Fee and other unpaid amounts in accordance with this CONCESSION AGREEMENT, the Licensing Authority shall be entitled to levy and recover from the Concessionaire pre-estimated damages in an amount equal to 25% (twenty five percent) of the market value of the Hotel Premises at the time of such default (“Pre-estimated Damages”) and such Pre- estimated Damages may be recovered in any manner permitted under Applicable Law including by encashment or appropriation of any balance Performance Guarantee available with the Licensing Authority (if applicable at such time). The Concessionaire confirms that the amount stipulated as Pre-estimated Damages herein is a genuine pre-estimate of loss and damage likely to be suffered by the Licensing Authority due to a Concessionaire Event of Default and the Concessionaire waives any

right to contest the reasonableness of Pre-estimated Damages specified herein. “

## SECTION 4 - DESIGN DETAILS

- 4.1.1. The Successful Bidder will be required to ensure that the external façade of the Hotel Premises and traffic movement plan within the Hotel Premises are in sync with that of IECC being developed at Pragati Maidan. To this end, the Successful Bidder will be required to provide detailed design specifications of the external façade of the Hotel Premises and traffic movement plan within the Hotel Premises to Tendering Authority and Licensing Authority. The Tendering Authority and Licensing Authority shall provide approval on the design submitted within 15 (fifteen) days, provided that the façade and traffic movement plan are in line with IECC Complex, otherwise Tendering Authority/Licensing Authority may request the Successful Bidder to revise the facade design and/or traffic movement plan as per design specification of IECC. The Successful Bidder and its architect may meet with Tendering Authority or consulting Architect of Tendering Authority before submitting the final design for approval so as to get inputs for the façade design and traffic movement planning.
- 4.1.2. During the construction phase of the Hotel, the bidder will ensure that:
  - 4.1.2.1. All necessary anti dust measures are undertaken while construction is being carried out.
  - 4.1.2.2. Construction does not get impeded in case of a construction ban by the Government (eg due to pollution during winter months or any other reason).
- 4.1.3. A proposed tunnel connecting the hotel premises to the IECC Complex is meant to enhance the viability of the hotel. Since the IECC project is already under implementation, it is advisable that this tunnel is constructed at this time along with the IECC project. It will be extremely difficult logistically to make this tunnel by the successful bidder at a later stage and even the cost involved would be much higher.
- 4.1.4. The successful bidder may therefore agree to construction of this tunnel accordingly and also bear the cost/ expenditure incurred on construction of this tunnel which is estimated to be in the range of Rs.20-22 crores.
- 4.1.5. The Successful Bidder shall ensure that the Hotel Premises shall have atleast 150 premium suites and rooms so as to also cater to the requirements of International and Summit level conferences and should adhere to the tenets of the Code of Conduct for Safe and Honorable Tourism as detailed by Ministry of Tourism, Government of India on their official website <http://www.tourism.gov.in>. This will include but will not be limited to design of the Hotel Premises in manner that it meets with the security requirements spelt out by concerned security agencies.
- 4.1.6. The Successful Bidder shall be required to get all the requisite statutory and other approvals like the concerned Municipal Authority, Delhi Urban Arts Commission, concerned police authority, approval or no objection certificate from Airports Authority of India, National Monuments Authority, any other local authority as maybe applicable required (including Delhi Pollution Control Board and Ministry of Environment, Forests and Climate Change) etc. as per the guidelines stipulated by these agencies.
- 4.1.7. The successful bidder/concessionaire shall ensure usage of such design and modern technology which would enable faster construction of the Hotel Premises.
- 4.1.8. The successful bidder will ensure that the construction work at the hotel site would be carried out in a manner that the construction activity is not visible from the outside and will not cause any dust and noise whatsoever for the events, conferences and activities happening at Pragati Maidan.
- 4.1.9. Tendering Authority/Licensing Authority will allow the successful bidder/Concessionaire to use IECC project's basement and stack parking on a Cost

sharing basis as decided by Tendering/Licensing Authority from time to time.

## **SECTION 5 - PAYMENT TERMS**

5.1.1. Once the successful bidder(s) is issued Letter of Award (LoA), the Bidder will be required to make payments as per following terms and schedule:

| S.no | Name                  | Amount in INR Cr                | Payment mode  | Payable b   | To be returned by Tendering Authority /Licensing Authority  |
|------|-----------------------|---------------------------------|---|---|---|
| 1.   | Bid Security          | 10                              | Through e-payment in e-Bidding Portal                           | Before last date of submission of Initial proposals.  | Within 15 days of signing of Concession Agreement   |
| 2.   | Upfront License Fee   | 200                             | To Licensing Authority's account                                | 8 equal half yearly instalments starting from date of signing of Concession Agreement payable atleast 7 days before the start of the half year. | NA  |
| 3.   | Performance Guarantee | 75                              | In the form of Bank Guarantee as per format provided in the RFP | 7 days before signing of Concession Agreement   | Within 1 month of receipt of Security Deposit and letter from Statutory Auditor of the Concessioner confirming operationalization of Hotel. |
| 4.   | Annual License Fee    | 15 or as per bid parameter      | To Licensing Authority's account                                | 7 days before signing of Concession Agreement, as per details in clause 7.2.2.5 below   | NA  |
| 5.   | RFP Processing Fee    | 1.15                            | To Licensing Authority's account                                | 7 days before signing of Concession Agreement   | NA  |
| 6.   | Security Deposit      | Three yrs. Minimum Bench Marked | To Licensing Authority's account                                | In the form of BG as per fee payment  | NA  |

|  |  |     |  |   |  |
|--|--|-----|--|---|--|
|  |  | Fee |  | schedule in Concession Agreement (annually updated) along with Licensing Fee for each year. |  |
|--|--|-----|--|---|--|

- 5.1.2. Execution of Concession Agreement by the Licensing Authority will only be initiated after receipt of charges above.
- 5.1.3. In case bidder(s) fails to deposit payment as per point 1 within the timeframe given above, the bidder will be Technically disqualified.
- 5.1.4. In case successful bidder deposits the payment as per point 1 above within time period given but fails to deposit payment as per point 2,3,4 and 5 within the timeframe given above, the Bid Security and the payment of the bidder as per point 1 received earlier will be forfeited and the bidder may be debarred upto 5 years from participation in any future Bidding/Tendering/RFP process of Licensing Authority/Tendering Authority/Bid Process Coordinators.

**SECTION 6 - SCOPE OF WORK**

6.1.1. On execution of the Concession Agreement between the successful bidder and Licensing Authority, the bidder will be required to perform the following activities as per the timelines given herein:

| S.no | Parameter   | Maximum time allowed from the date of signing of Concession Agreement |
|------|---|---|
| 1.   | Taking possession of the site from.   | 1 calendar month  |
| 2.   | Obtaining of the requisite statutory / non-statutory approvals /clearances from the concerned agencies including approval of external façade and traffic movement plan from Tendering Authority | 10 calendar months  |
| 3.   | Commencement of construction  | 1 Year  |
| 4.   | Operationalization of Hotel (with at least 150 rooms/suites operational).   | 5 years   |

6.1.2. Upon completion of each parameter as per the table above, successful bidder will be required to issue a letter to the Tendering Authority along with a copy of the relevant document(s)/photographs confirming the completion of parameter.

6.1.3. In case of any delay in the parameters 1, 2 and 3 above, the Tendering Authority reserve a right to levy penalty at the rate of Rs 10 lakh per month of delay (as a genuine pre estimate of the Losses which the Tendering Authority may suffer) upto 24 months.

6.1.4. In case of any delay in the parameter 4 above, the Tendering Authority reserve a right to levy penalty at the rate of Rs 1 Cr per month of delay (as a genuine pre estimate of the Losses which the Tendering Authority may suffer) upto 24 months.

6.1.5. In case of delay of more than 24 months for any parameter, the Licensing Authority will take possession of the site on “as is where basis is” and all rights of the successful bidder with regard to site, building, material, equipment etc. will stand cancelled. At this juncture the Concession Agreement will stand cancelled and the land along with all building(s)/material/asserts etc. will return to the Leasing Authority with all rights thereof.

6.1.6. Further, it is clarified that in case of cancellation of Concession Agreement due to delay of more than 24 months or any event of default as mentioned in the Concession Agreement, all amount(s) paid by the bidder till that point including the upfront license fee and performance guarantee will be forfeited by Licensing Authority.

**6.2 Incentive Scheme:**

To incentivize the successful bidder for faster operationalization of the Hotel the Tendering/Licensing Authority shall have the following incentive for the bidder:

- Operationalization of the Hotel on or before 30<sup>th</sup> June 2022: 25% discount on applicable annual License Fee (calculated as per clause 7.1.2, exclusive of taxes and duties) for 10 years.
- Operationalization of the Hotel on or before 30<sup>th</sup> September 2022: 20% discount on applicable annual License Fee (calculated as per clause 7.1.2, exclusive of taxes and duties) for 10 years.
- The discount will be applicable only on annual license fee payable from next year after completion of milestones in points 1 and 2 (within clause 6.2) herein.
- No time extension will be allowed in above deadlines for incentive purposes in any case including any force majeure during the period.

## SECTION 7 - BID PROCESS DETAILS

### 7.1 Schedule of Bid Process

The Schedule of bidding process shall be as follows:

| S.no | Event Description   | Date/Time  |
|------|---|--|
| 1.   | Issue of RFP Document.  | 28.02.2020   |
| 2.   | Last date of submission of queries.   | 05.03.2020 upto 1500 hrs   |
| 3.   | Pre-Bid Conference.   | 06.03.2020 at 1500 hrs at<br>Conference room<br>India Trade Promotion<br>Organization<br>Pragati Bhawan, Pragati<br>Maidan<br>New Delhi-110001 |
| 4.   | Publication of responses to queries.  | 09.03.2020   |
| 5.   | Start of submission of Online Proposals.  | 09.03.2020   |
| 6.   | Last date of submission of Online Proposals along with Bid Security to Tendering Authority.   | 23.03.2020 upto 1500 hrs   |
| 7.   | Opening of Online Technical Proposals and Documents.  | 23.03.2020 days at 1530 hrs  |
| 8.   | Mock e-Bidding exercise for all bidders who have submitted Online Proposals and BID SECURITY. | 26.03.2020   |
| 9.   | Intimation to Technically Qualified bidders and Opening of Price Bids.                        | 27.03.2020 from before<br>1100 hrs.  |
| 10.  | e-Auction.  | 27.03.2020 from 1300 hrs to<br>1500 hrs plus auto extension<br>if any.   |

### 7.2 Eligibility Conditions

For determining the eligibility of Bidders, the following shall apply ("**Eligibility Conditions**"):

7.2.1. The Bidder shall be required to meet the minimum technical and commercial eligibility criteria as follows:

7.2.1.1. The Licensing Authority will be signing a Concession Agreement with a company registered under Companies Act, 2013 only. Therefore, the Bidder for participation in the Bidding Process may be a company or a Consortium. Foreign entity can be part of Consortium. While there is no specific bar in this RFP for participation by an Individual or any entity which is not classified as a Company under Companies Act, 2013, the individual or entity must be eligible as per terms of this RFP, and if the Successful Bidder is an individual, partnership, consortium (of any kind) or any other entity which is not a company, the Successful Bidder (if not already a company) shall incorporate a special purpose company under the Companies Act, 2013 within 30 (thirty) days of the issue of the Letter of Award. This special purpose company (incorporated by the Successful Bidder) shall enter into a Concession Agreement with the Licensing Authority for performing the operations mentioned under this RFP and associated Concession Agreement. The

special purpose company shall be required to have an office (not necessarily registered or corporate office) in National Capital Region.

- 7.2.1.2. Percentage of shareholding in the special purpose company shall remain the same as percentage of shareholding of the Successful Bidder(s) in the consortium (in case of individual Bidder this will be considered 100% (one hundred percent)) and will not be changed until expiry of 1 (one)-year of the date of Operationalization of the Hotel Premises, except with the prior written consent of the Licensing Authority. After 1 (one)-year of the date of Operationalization of the Hotel Premises, the Bidder(s) may change the shareholding pattern in the special purpose company, in any manner without the consent of the Licensing Authority. It is however clarified that the Concession Agreement will continue to remain in the name of the special purpose company.
- 7.2.1.3. A bidder shall not have a conflict of interest that may affect the Selection Process (the "Conflict of Interest"). Any bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the tendering authority/ Licensing Authority will forfeit and appropriate the Bid Security as mutually agreed genuine pre-estimated compensation and damages payable to the tendering authority/ Licensing Authority for, inter alia, the time, cost and effort of the tendering authority/ Licensing Authority including consideration of such bidder's Proposal, without prejudice to any other right or remedy that may be available to the tendering authority/ Licensing Authority hereunder or otherwise.
- 7.2.1.4. A bidder shall be deemed to have a Conflict of Interest affecting the Selection Process, if:
- i. The bidder, its member or Associate thereof (or any constituent thereof) and any other bidder, or member of any other Consortium or Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest:
  - ii. Provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of an bidder, its member or Associate (or any shareholder thereof having a shareholding of more than 5% (five percent) of the paid up and subscribed share capital of such bidder, member or Associate thereof (or any constituent thereof), as the case may be) in the other bidders, member or Associate thereof (or constituent thereof) is less than 5% (five percent) of the subscribed and paid up equity share capital thereof:
  - iii. 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 2(72) of the Companies Act, 2013.
  - iv. For the purposes of this clause, indirect shareholding held through one or more intermediate persons shall be computed as follows:
    - a) 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
    - b) Subject always to sub-clause (a) 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:

- c) Provided, however, that no such shareholding shall be reckoned under this sub-clause (b) if the shareholding of such person in the intermediary is less than 26% (twenty six percent) of the subscribed and paid up equity shareholding of such intermediary; or
- d) A constituent of such bidder is also a constituent of another bidder;
- e) Such bidder, its member, or its Associate receives or has received any direct or indirect subsidy or grant from any other bidder, its member, or its Associate; or
- f) Such bidder has the same legal representative for purposes of this Proposal as any other bidder; or
- g) Such bidder has a relationship with another bidder, directly or through common third parties, that puts them in a position to have access to each other's information about, or to influence the Proposal of either or each of the other bidder.
- h) For purposes of this RFP, "Associate" means, in relation to the bidder, or its members, a person who controls, is controlled by, or is under the common control with such bidder or member.
- i) As used in this definition, the expression "control" has the meaning ascribed thereto in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011 or any statutory re-enactment thereof.

7.2.1.5. Any entity which has been barred by the Central Government, any State Government, a statutory authority or a public-sector undertaking, as the case may be, from participating in any project and the bar subsists as on last date of the submission of online Proposals shall not be eligible to submit a Proposal either by itself or through its Associate(s).

7.2.1.6. A Bidder or its Associate(s) should have, during the last 3 (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 Bidder or its Associate, nor been expelled from any project or agreement nor have had any agreement terminated for breach by such Bidder or its Associate.

7.2.1.7. In case the Bidder is a Consortium, it shall, comply with the following additional requirements:

- i. Number of members in the Consortium shall not exceed 3 (Three);
- ii. Each Consortium member shall have at least 20% (twenty percent) of the shareholding in the consortium.
- iii. Subject to the provisions of sub-section (i) above, the Proposal should contain the information required for each member of the Consortium;
- iv. Members of the Consortium shall nominate one member as the lead member (the "Lead Member"). The nomination(s) shall be supported by a power of attorney, executed as per applicable law and in the format specified in this RFP, signed by all the remaining members of the Consortium.
- v. The duties, responsibilities and powers of such Lead Member shall be specifically included in the Joint Bidding Agreement. It is expected that the Lead Member would be authorized to incur liabilities and to receive instructions for and on behalf of the Consortium;

- vi. No change in the composition of the Consortium will be permitted by the Tendering Authority after last date of submission of online Proposals during the Bidding Process.
  - vii. Members of the Consortium shall enter into a legally binding Joint Bidding Agreement in the format set out at Section 9 (“Joint Bidding Agreement”) for the purpose of submitting a Proposal. The Joint Bidding Agreement to be submitted along with the Proposal, shall, inter alia:
    - j) Set out a clear outline and brief description of the proposed roles and responsibilities of the individual members; and
    - k) Include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the operation services until the date the Concession Agreement is signed.
  - viii. Except as provided under this RFP, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Licensing Authority.
- 7.2.1.8. The Bidder, or in the case of a Consortium any member(s) individually or jointly, should meet the following 3 (three) criteria, as of the last date of submission of online Proposals:
- i. Be able to meet at least one parameter from the list of parameters given below:

| S. no. | Parameters  |
|--------|---|
|        | <i>(Please ensure that at least 1 (one) parameter from the below mentioned parameters is compiled by the Bidder or in case of a Consortium by any one member (individually)).</i>   |
| 1.     | Has developed (or constructed) least 1 (one) four-star or five-star hotel property with at least 200 (two hundred) rooms/suites in any part of the world in the proceeding 10 (ten) years from last date of submission of online Proposals,                                     |
| Or     |   |
| 2.     | Has owned least 1 (one) four-star or five-star hotel property with at least 200 (two hundred) rooms/suites in any part of the world in the proceeding 10 (ten) years for at least 3 (three) consecutive years from last date of submission of online Proposals, or;             |
| Or     |   |
| 3.     | Has managed (or operated) least 1 (one) four-star or five-star hotel property with at least 200 (two hundred) rooms/suites in any part of the world in the proceeding 10 (ten) years for at least 3 (three) consecutive years from last date of submission of online Proposals. |

And;

- ii. Have a minimum average annual turnover of Rs. 250,00,00,000/- (Rupees two hundred and fifty crore only) from any business, as per the audited annual

reports, in the 3 (three) financial years immediately preceding the last date of submission of online Proposals;

And;

- iii. Have a minimum average net-worth of Rs. 350,00,00,000/- (Rupees three hundred and fifty crore only), as per the audited financial report, in the 3 (three) financial years immediately preceding the Last date of submission of online Proposals.

## 7.2.2. Financial Bid Parameter/License Fee Details

- 7.2.2.1. The Tendering Authority has invited this RFP on behalf of the proposed Licensing Authority (SPV to be incorporated by ITPO) for Selection of Developer cum Operator of 5 Star Hotel at International Exhibition-cum-Convention Centre (IECC) Pragati Maidan under long-term Concession basis. The Developer cum Operator selected after this RFP process will be required to sign a Concession Agreement with Licensing Authority. The Concession agreement will be for 60 (sixty) years and will require the selected Operator to Construct a 5-Star Hotel at proposed site. Once the Hotel is constructed the Operator either themselves or through a Professional Brand will run and manage the said Hotel (within the parameters of Concession Agreement)
- 7.2.2.2. At the end of Concession Agreement Concessionaire will transfer site (land) and all immovable assets (i.e. buildings etc.) to the Licensing Authority with no compensation of whatsoever nature payable to the concessionaire.
- 7.2.2.3. The Concessionaire will be provided the right to mortgage the land of 3.70 acres for availing institutional loan only for the explicit purpose of construction of 5-star hotel at this site, subject to the NOC being obtained by them from the Licensing Authority. The Licensing Authority will take adequate safeguards to ensure continued ownership/leasehold of the site without any encumbrances before issuance of such NOC. The Concessionaire irrevocably will not have any right or remedy which they may have at any stage at law or howsoever otherwise arising to challenge or question the decision taken by the Licensing Authority in this context.
- 7.2.2.4. Further during the currency of the Concession Agreement, the Concessionaire will pay to the Licensing Authority the **annual License Fee** as agreed in the Concession Agreement.
- 7.2.2.5. The calculation of the annual License Fee:
  - I. The License fee for any year will be the minimum benchmark fee or the Variable License Fee, whichever is higher. In addition to Upfront Fee the Annual License fee will also be payable from date of signing of Concession Agreement by the Concessionaire.
  - II. **Minimum Benchmark Fee (MBF)**: The minimum benchmark fee is the yearly minimum fee payable by the Concessionaire to the Licensing Authority irrespective of any other factor. The MBF will be Rs 15.00 Cr per year at the time of Concession Agreement. The MBF will escalate by 20% every 10 years from date of signing of Concession Agreement. (eg: for first 10 years MBF will be Rs 15.00 Cr per year, for the next 10 years MBF will be Rs 18 Cr per year, next 10 years will be Rs 21.6 Cr and so on)
  - III. **Variable License Fee**: variable fee will be calculated as variable fee parameter multiplied by Gross Revenue of the Hotel (constructed by Concessionaire) rounded down to nearest thousand rupees. (i.e. fee of Rs 15,15,755/- will be considered Rs 15,15,000)

- IV. **Variable Fee parameter:** will be the highest value quoted by the successful bidder in the e-Bidding process (including Initial Price offer and/or in e-Auction stage). Variable fee parameter will be minimum 8.50% (eight point five zero percent ) and will be allowed to be increased in the increments of 0.01% in the initial proposal and e-Auction stage. The Variable Fee parameter will automatically increase every 30 years by 5 percentage points. (for example, if the highest quoted variable fee parameter is 10%, then for first 30 years of concession agreement the parameter will remain as 10% and in the next 30 years of concession agreement it will automatically become 15%).
- V. During the Construction phase of the Hotel (i.e. upto the date of issue of letter from Statutory Auditor of the Concessionaire confirming operationalization of the Hotel) the Concessionaire will pay yearly to the Licensing Authority an amount equal to Minimum Benchmarked Fee including escalations. The amount will be remitted by the Concessionaire within 7 days of start of the Financial year (i.e. upto 7<sup>th</sup> April).
- VI. Once the Hotel is operational, at the beginning of each financial year the Concessionaire will pay to the Licensing Authority the minimum benchmarked fee for that year (including that year's escalation). The amount will be remitted by the Concessionaire within 7 days of start of the Financial year (i.e. upto 7<sup>th</sup> April). At the end of that Financial year, within a period not exceeding 3 months (i.e. 30<sup>th</sup> June), the Concessionaire will present to the Licensing Authority a statement of Gross Annual Revenue certified by their Statutory Auditor for that year. Based on the statement and variable fee parameter the variable license fee for that year will be calculated. In case the variable fee is greater than Minimum benchmarked fee, the operator will be liable to pay the differential amount to the Licensing Authority within 7 days (i.e. 7<sup>th</sup> July).
- VII. GST and other applicable indirect taxes and/or statutory duties/levies etc. will be payable by the Concessionaire over and above the license fee each year and it would not be the liability of the Licensing Authority.
- VIII. **Calculation of Gross Revenue:** "Gross Revenue" of the Hotel for any Financial Year shall mean the total amount of revenue and receipts of every kind (from both cash and credit transactions) derived by the Operator from the operation of the Hotel and its facilities, as certified by the statutory auditors of the Operator, including receipts from room occupancy charges, telephone, telefax and telex charges, laundry, sale of food, beverages, liquor, recreational amenities (outdoor pool, health club, spa, sauna, fitness facility etc.), outdoor catering, receipts from vending machines; parking, commercial or other spaces on account of rent and / or License fee from the sub-Licensees of every description and kind, and the recovery in respect of any other service or facility provided by the Concessioner to the users / guests of the said Property, which are availed/ realized by the Concessioner from an outside party(s) at a consideration BUT shall exclude and be arrived at after deducting the following:-
  - a) all statutory applicable indirect taxes such as luxury tax, sales tax, entertainment tax, expenditure tax, service tax, goods & services tax and the like by whatever name called now or in future, which the operator has agreed to pay or is bound to pay;
  - b) revenue on sale of assets of capital nature owned by the Concessionaire; and
  - c) interest income from investments made.

## Section – 8 Submission of Proposals

### 8.1 Preparation of Proposal

8.1.1. Bidders are requested to submit their Proposals in the English language and strictly in the formats provided in this RFP. The Tendering Authority will evaluate only those Proposals that are received in the specified forms and are complete in all respects. Proposals have to be submitted online with only the documents as per checklist at Section 7.3(c)(vi).

### 8.2 Description of the Bidding Process

8.2.1. The bidding process will be conducted in 2 stages comprising of the following sequence:

8.2.1.1. **Initial Proposals:** in which the Bidders would be required to submit their BID SECURITY, Technical Bids, initial price offer and provide details regarding compliance with the Eligibility Conditions.

8.2.1.2. **e-Auction:** in which the Technically Qualified Bidders alone shall be eligible to participate in the ascending forward e-auction and submit their variable fee parameter on the e-Bidding portal. The bidding will start from highest initial variable fee parameter as received during Initial Proposal stage. The minimum increment in the e-Auction shall be 0.01%. The bidder quoting the highest value at the end of the e-Auction will be considered as Successful bidder.

#### **8.2.2. Technical Bid**

8.2.2.1. Each Bidder who intends to participate in the RFP process will be required to successfully complete the following on or prior to the last date for submission of online Bid:

8.2.2.1.1. In preparing their Proposals, Bidders are expected to thoroughly examine the RFP. Material deficiencies in providing the information requested may result in rejection of a Proposal.

8.2.2.1.2. The Technical Bid shall have 2 (two) components, that is, Technical Bid submission form and Technical Bid submission documents, both of which will be submitted on <https://www.mstcecommerce.com>, the e-Bidding portal, in the manner set forth in this RFP.

8.2.2.1.3. In case the information provided by the Bidders or the documents submitted by them are found to incorrect or false at any state during the bidding process or subsequently their bid will stand annulled and the entire amount submitted by them till that point will be forfeited unconditionally.

8.2.2.2. While preparing the Technical Bid, bidders must give particular attention to the following:

8.2.2.2.1. The average annual turnover to meet the criteria for a Technically Qualified Bidders should be certified by the statutory auditor of the Bidder.

8.2.2.2.2. The average annual net-worth to meet the criteria for a Technically Qualified Bidders should be certified by the statutory auditor of the bidder.

8.2.2.2.3. The Technical Bid should not include any information regarding the Financial Proposal.

8.2.2.3. Failure to comply with the requirements spelt out above shall render the Proposal liable to be rejected.

8.2.2.4. Technical Bid shall be signed by the person authorized to sign the Proposal on behalf of the Bidder (the "Authorized Representative"). The Authorized Representative shall initial each page in blue ink. 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 Authorized Representative. The Authorized Representative shall be as detailed below:

- 8.2.2.4.1. The proprietor, in case of a sole proprietorship;
- 8.2.2.4.2. A partner, in case of a partnership firm and/ or a limited liability partnership; or
- 8.2.2.4.3. A duly authorized person holding the power of attorney, in case of a company and/ or corporation.
- 8.2.2.4.4. In case of a Consortium, the Authorized Representative shall be the proprietor, partner or holder of the power of attorney, as the case may be, of the Lead Member.
- 8.2.2.4.5. Power of attorney in favor of the Authorized Representative should be executed as per applicable law and in the format specified herein.
- 8.2.2.5. The Bidders should note the last date of submission of online bids. Except as specifically provided in this RFP, no supplementary material will be entertained by the Tendering Authority, and that evaluation will be carried out only on the basis of Proposal received by the closing time of the last date of submission. Bidders will ordinarily not be asked to provide additional material, information or documents subsequent to the last date of submission, and unsolicited material if submitted will be summarily rejected.
- 8.2.2.6. For the avoidance of doubt, the Tendering Authority reserves its right to seek clarifications/ verifications in case the Proposal is non-responsive or lacking in details on any aspects.
- 8.2.2.7. The Technical Bid should provide the following information:
  - 8.2.2.7.1. The average annual turnover so as to meet the Eligibility Conditions.
  - 8.2.2.7.2. The average annual net-worth so as to meet the Eligibility Conditions.
  - 8.2.2.7.3. The audited financial statements of the Bidder/ Lead Member for the last 3 (three) financial years preceding the last date of submission. The financial statements should be certified by the statutory auditor of the Bidder/ Lead Member.

**8.2.3. While submitting the Variable Fee parameter the bidder(s):**

- 8.2.3.1. are expected to take into account the various requirements and conditions stipulated in this RFP.
- 8.2.3.2. ensure that their offer shall be without any condition attached or subject to any assumption and shall be final and binding.
- 8.2.3.3. If make any assumption or condition, which is indicated in the any part of the Proposal regarding the Price Offers, the entire Proposal shall be considered non-responsive and liable to be rejected.
- 8.2.3.4. Must consider all the expenses and tax liabilities etc. specified in the draft Concession Agreement, levies and other impositions applicable under the prevailing law on the developer and Concessionaire of the Hotel Premises.
- 8.2.3.5. The Bidders must conduct their due diligence about the tax implications and Tendering Authority will not be liable for any incident or unawareness of the levies.
- 8.2.3.6. The Proposals must remain valid for not less than a period of 180 (one hundred and eighty) days from the last date of Bid submission. The Tendering Authority will make its best effort to complete the execution of the Concession Agreement within this period. If the Tendering Authority wishes to extend the validity period of the Proposals, it may ask the Bidders to extend the validity of their Proposals for a stated period. Bidders who do not agree, will have the right not to extend the

validity of their Proposals, subject to such Proposals thereafter being rejected by the Tendering Authority.

### 8.3 Submission, receipt and opening of Proposals

- 8.3.1. The Proposals shall be filled and submitted online at the e-Bidding portal and in accordance with the procedure laid down in herein and Annexure 7.
- 8.3.2. The details of the registration process to be followed by the Bidders, and process of preparation and submission of online Proposals are laid down in Annexure 7.
- 8.3.3. Only online Proposals shall be submitted with the following documents:
  - 8.3.3.1. E-payment security Deposit receipt scanned copy or bank statement as per the Bid Security.
  - 8.3.3.2. The audited financial statements of the Bidder or the member(s) of Consortium for the last 3 (three) financial years preceding the last date of submission. The financial statements should be certified by the statutory auditor of the Bidder or Lead Member. The financial statements should indicate clearly the average annual net worth and average annual turnover, certified by the statutory auditor.
  - 8.3.3.3. Certified statements as per Annexures 1 and 2;
  - 8.3.3.4. Proof of developing and/or owning and/or managing (operating) at least 1 (one) four-star or five-star hotel property with at least 200 rooms/suites in any part of the world in the proceeding 10 (ten) years, for at least 1 (one) year, from last date of submission of online proposals. Under this a Bidder may submit proof of ownership, Concession Agreement, license deed, work order, contract, agreement etc. A certificate may also be submitted from statutory auditor regarding annual turnover from that property as per Annexure 2.
  - 8.3.3.5. A power of attorney in the format set out in Section 11 as applicable, along with a certified true copy of the relevant authorizations in support thereof such as letter of authority, resolution of the board of Directors, resolution of the shareholders etc. In case a board resolution duly authorizes the authorized signatory, a power of attorney shall not be required to be submitted and a copy of such board resolution shall suffice;
  - 8.3.3.6. Integrity pact, signed and stamped as per Annexure 5 (“Integrity Pact”).
  - 8.3.3.7. Undertaking, signed and stamped as per Annexure 6.
  - 8.3.3.8. Joint Bidding Agreement duly executed as per Section 9, if applicable.
  - 8.3.3.9. Proposals should be submitted online on or prior to the time and date mentioned in Section 6.
  - 8.3.3.10. Technical Proposal Submission Letter as per Annexure-8
- 8.3.4. It is the responsibility of the Bidders to submit the Proposals on the e-Bidding portal prior to the time and date specified in Clause Section 7. The Tendering Authority shall not be responsible for any delay due to any reason at the end of the bidder.
- 8.3.5. It is hereby clarified that complete Proposal has to be submitted on the online e-Bidding portal only as per Annexure 7.
- 8.3.6. On the date and time of opening of the Technical Bid, the documents shall be downloaded/ opened by the Evaluation Committee to evaluate whether the Bidders meet the Eligibility Conditions.
- 8.3.7. Any effort by the Bidder(s) to influence the Tendering Authority during the Bidding Process (including, inter alia, the evaluation and/ or comparison of the Proposal, and the declaration of the Successful Bidder) may result in the rejection of the Bidder’s Proposal.

## 8.4 Proposal evaluation

- 8.4.1. As part of the evaluation, the Technical Bid shall be checked to evaluate whether the Bidder(s) meets the Eligibility Conditions. The Financial Proposals of only those bidders whose Technical Bid are found to meet the Eligibility Conditions would be further evaluated in accordance with the criteria set out in this RFP.
- 8.4.2. Prior to evaluation of Proposals, the Tendering Authority will determine whether each Proposal is responsive to the requirements of the RFP. The Tendering Authority may, in its sole discretion, reject any Proposal that is not responsive hereunder. A Proposal will be considered responsive at each stage only if:
  - 8.4.2.1. It is received in the form specified in this RFP;
  - 8.4.2.2. It is received by the last date of submission of bid including any extension thereof in terms hereof;
  - 8.4.2.3. It is accompanied by the RFP Fee and Bid Security as specified in this RFP;
  - 8.4.2.4. It is signed and marked as stipulated in this RFP;
  - 8.4.2.5. It is accompanied by all the necessary documents as given in this RFP;
  - 8.4.2.6. It does not contain any condition or qualification; and
  - 8.4.2.7. It does not violate any clause, statement or intended meaning in this RFP.
- 8.4.3. The Tendering Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution or withdrawal will be entertained by the Tendering Authority in respect of such Proposals after the last date of submission. However, the Tendering Authority reserves the right to seek clarifications from the bidder during the evaluation process. The Tendering Authority will subsequently examine and evaluate Proposals in accordance with this RFP.
- 8.4.4. During the e-Auction, the qualified bidders will submit their price-bid for the variable fee parameter in %, subject to the condition that such quoted variable fee parameter shall not be less than the Pre-Set value.
- 8.4.5. The Qualified bidder quoting the highest variable fee parameter will be declared as the Successful Bidder and will be issued a letter of award by the Tendering Authority/Licensing Authority ("Letter of Award").
- 8.4.6. The Bidder(s) 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 Tendering Authority will reject a Proposal without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice Or Restrictive Practice (as per the meaning ascribed to the terms in Annexure 3 - Concession Agreement and collectively the "Prohibited Practices") in respect of the Bidding Process. In such an event, the Tendering Authority will, without prejudice to its any other rights or remedies, forfeit and appropriate the Bid Security, as mutually agreed genuine pre-estimated compensation and damages payable to the Tendering Authority for, inter alia, time, cost and effort of the Tendering Authority, in regard to the RFP, including consideration and evaluation of such Bidder's Proposal.
- 8.4.7. The Bidding Process shall be governed by, and construed in accordance with, the laws of India and the Courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and in connection with the Bidding Process.

## 8.5 Bid Forms

The following bid forms will be available on the e-Bidding portal for submission of the bid. The Bidders are advised to fill the forms only on the website.

## Commercial Terms:

| S. no | Term   | Input type required from Bidder |
|-------|--|---------------------------------|
| 1.    | Name of the Bidder/ Lead Member of Consortium  | Remark                          |
| 2.    | Address of the Bidder/Lead Member of Consortium  | Remark                          |
| 3.    | If the Bid is being submitted as a Consortium, please mention the names of Consortium members, otherwise mention Not Applicable  | Remark                          |
| 4.    | Name of Contact Person (Authorized Representative)   | Remark                          |
| 5.    | Mobile number and landline number of Authorized Representative   | Remark                          |
| 6.    | E-mail address for correspondence  | Remark                          |
| 7.    | Bidder All Consortium members confirm that they have studied the terms and conditions of RFP for selection of Developer cum Operator for 5 (five) Star Hotel at IECC Complex, Pragati Maidan, New Delhi and accept the same unequivocally in its entirety without any omission or condition whatsoever.  | Agree only                      |
| 8.    | The Bidder and All Consortium members confirm that they understand the eligibility conditions and the scope of RFP and accordingly have prepared their Proposal. Further they have prepared the documents as per the checklist given in RFP.   | Agree only                      |
| 9.    | Bidder /All Consortium members shall make available to the Tendering Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.   | Agree only                      |
| 10.   | Bidder /All Consortium members certify that in the last 3 (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 us, 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. | Agree only                      |
| 11.   | Bidder /All Consortium members understand that you may cancel the Bidding Process at any time and that Tendering Authority are neither bound to accept any Proposal that it may receive nor to declare the Successful Bidder, without incurring any liability to the Bidder(s).  | Agree only                      |

| S. no | Term  | Input type required from Bidder |
|-------|---|---------------------------------|
| 12.   | Bidder /All members of the Consortium confirm that all conditions mentioned in section 4 of the RFP will be completed before Operationalization of the Hotel Premises if selected as Successful Bidder. | Agree only                      |

## Technical Terms:

| S.no | Term  | Input type required from Bidder. |
|------|---|----------------------------------|
| 1.   | Bidder /All members of the Consortium understand the input being given by them in Technical terms will not be used for evaluation purpose by the Tendering Authority and are for information only.  | Agree only                       |
| 2.   | Please mention the total number of rooms/suites planned to be constructed. (The number indicated here will not be used for evaluation purpose and it is understood by the Tendering Authority that this is subject to change subsequently). | Remark                           |

**SECTION 9 - FORMAT OF LETTER OF AWARD**

(to be issued on Tendering Authority's / Licensing Authority's Letterhead)

Ref. No.: [insert reference no]

Date: [insert date]

To,

[Insert Name and Address of Successful Bidder]

Kind Attention: [Insert Name and Designation of the concerned official of Successful Bidder]

Sir/Madam,

**Subject: Letter of Award ("LOA") for the selection of the Successful Bidder.**

This is with reference to your proposal for RFP number: ITPO/MSTC/Land License for 5-Star Hotel/RFP/20-21/01 for selection of Developer cum Operator of 5 Star Hotel at International Exhibition-cum-Convention Centre (IECC) Pragati Maidan under long-term Concession basis.

We are pleased to inform you, that pursuant to the evaluation of proposals, you have submitted the Highest variable fee parameter, in accordance with the RFP Document, and therefore you have been selected as the Successful Bidder.

Under the terms of the RFP you are requested to submit the following:

| S.no | Name  | Amount in INR Cr | Payment mode  | Payment within                  |
|------|---|------------------|---|---------------------------------|
| 1.   | Performance Guarantee                           | 75               | In the form of Bank Guarantee as per format provided in the RFP | 30 days of date of this letter. |
| 2.   | Upfront License Fee 1 <sup>st</sup> installment | 25               | To Licensing Authority's account                                | 30 days of date of this letter. |

|    |   |    |                                  |                                 |
|----|---|----|----------------------------------|---------------------------------|
| 3. | Minimum Benchmark Fee of 1 <sup>st</sup> Year | 15 | To Licensing Authority's account | 30 days of date of this letter. |
|----|---|----|----------------------------------|---------------------------------|

You are required to deposit the payment in the following account:

|  |
|--|
| <p>Account Number:</p> <p>Account Title:</p> <p>IFSC Code:</p> <p>MICR Code:</p> <p>Bank Name:</p> <p>Branch Name:</p> |
|--|

You are requested to sign and return the duplicate copy of this LOA to the office of the undersigned, as acknowledgement of this LOA, latest within seven (7) days of the receipt of this LOA, failing which the Bid Security submitted by you shall be unconditionally appropriated and this LOA shall stand cancelled and annulled forthwith.

Please also note that incase all payments as stipulated above are not made as per the timelines given herein, the Tendering/Licensing Authority will forfeit the amounts paid by you as per the terms of the RFP.

The Proposed date of signing of Concession Agreement is [insert date :30 days from date of this letter]. Please ensure that if an SPC is to be formulated as per terms of the RFP, the same is ready for signing of Concession Agreement as per date mentioned above.

Sincerely,

[Insert name and designation of the issuing authority]

## SECTION 10 - FORMAT OF JOINT BIDDING AGREEMENT (IN CASE OF CONSORTIUMS)

*[To be executed on stamp paper of appropriate value]*

This Joint Bidding Agreement (the “**Agreement**”) is entered into on this the \_\_\_\_ day of \_\_\_\_\_, 2019.

AMONGST

1. \_\_\_\_\_, a \_\_\_\_ [*incorporated/ registered*] under the \_\_\_\_\_ and having its registered office at \_\_\_\_\_ (hereinafter referred to as the “**First Part**” which expression shall, unless repugnant to the context and meaning thereof, be deemed to mean and include its successors and permitted assigns);

AND,

2. \_\_\_\_\_, a \_\_\_\_ [*incorporated/ registered*] under the \_\_\_\_\_ and having its registered office at \_\_\_\_\_ (hereinafter referred to as the “**Second Part**” which expression shall, unless repugnant to the context and meaning thereof, be deemed to mean and include its successors and permitted assigns);

AND,

3. \_\_\_\_\_, a \_\_\_\_ [*incorporated/ registered*] under the \_\_\_\_\_ and having its registered office at \_\_\_\_\_ (hereinafter referred to as the “**Third Part**” which expression shall, unless repugnant to the context and meaning thereof, be deemed to mean and include its successors and permitted assigns);

The above-mentioned parties of the First, Second and Third Parts are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”.

All capitalized terms used, but not defined herein shall have the same meaning ascribed to such terms in the RFP.

### **WHEREAS:**

1. India Trade Promotion Organization, is the nodal agency of the Government of India under aegis of Ministry of Commerce and Industry for promoting country's external trade, having its registered office at \_\_\_\_ (“**Tendering Authority**”) has invited proposals, on behalf of the licensing authority, by its request for proposal no **ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01** (“**RFP**”) for selection of a Developer cum Operator of a 5 (five) Star Hotel at International Exhibition-cum-Convention Center at Pragati Maidan (“**IECC**”).
2. The Parties are interested in jointly bidding under the provision of the RFP mentioned above as a Consortium and in accordance with the terms and conditions of the RFP and other bid documents issued in this respect by Tendering Authority.
3. It is a necessary condition under the RFP that the members of the Consortium shall enter into a

joint bidding agreement and furnish a copy thereof with the proposal.

NOW IT IS HEREBY AGREED as follows:

1. **Definitions and interpretations:** In this Agreement, the terms shall, unless the context otherwise requires, have the meaning ascribed thereto under the RFP.

Consortium:

- I. The Parties do hereby irrevocably constitute a consortium ("**Consortium**") for the purposes of jointly participating in the Bidding Process.
  - II. The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this RFP, either directly or indirectly or through any of their Associates.
2. **Covenants:** The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder, the Parties shall incorporate a special purpose company ("**SPC**") under the Companies Act, 2013 within 30 (thirty) days of the issue of the Letter of Award. This SPC shall enter into a Concession Agreement with the Tendering Authority for performing the operations mentioned under this RFP and associated Concession Agreement . The SPC will have an office (not necessarily Registered or Corporate Office) in National Capital Region.
  3. **Role of the Parties:** The Parties hereby undertake to perform the roles and responsibilities as described below:

- I. Party of the First Part shall be the member in charge of the Consortium ("**Lead Member**") and shall:

- a. Hold\_\_% (\_\_\_\_percent) of the shareholding in the Consortium; and
- b. Have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the date the Concession Agreement is signed; and
- c. Perform the\_\_activities in the Consortium;

- II. Party of the Second Part shall:

- a. Hold\_\_% (\_\_\_\_percent) of the shareholding in the Consortium and
- b. be responsible to perform activities in the Consortium; and

- III. Party of the Third Part shall

- a. Hold\_\_% (and percent) of the shareholding in the Consortium;
- b. be responsible to perform the activities in the Consortium;



- d. Violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
  - e. Create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- III. This Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
  - IV. There is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Associates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.
7. **Termination:** This Agreement shall be effective from the date hereof and shall continue in full force and effect until the date of signing of Concession Agreement. However, in case the Consortium is not the Successful Bidder, the Agreement will stand terminated upon selection of Successful Bidder by the Tendering Authority.

**Miscellaneous:**

- I. This Joint Bidding Agreement shall be governed by laws of India.
- II. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Tendering Authority.
- III. The Parties acknowledge and accept that the percentage of shareholding in this Agreement shall pass through into the SPC and will not be amended by the Parties before end of one-year of the date of Operationalization of the Hotel Premises, except with the prior written consent of the Licensing Authority post which the parties may change the shareholding pattern in any manner without the prior consent of the Tendering Authority.

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

SIGNED, SEALED & DELIVERED

For and on behalf of

LEAD MEMBER by:

[Signature] [Name] [Designation] [Address]

SIGNED, SEALED & DELIVERED

For and on behalf of SECOND PART by: [Signature]

[Name] [Designation] [Address]

SIGNED, SEALED & DELIVERED

For and on behalf of THIRD PART by: [Signature]

[Name] [Designation] [Address]

In presence of:

1. [Signature, name and address of witness]
2. [Signature, name and address of witness]

Notes:

*The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal or official seal of all members in accordance with required procedure.*

*The Joint Bidding Agreement should comprise of a copy of the extract of the registration certificate, charter documents or documents such as resolution/ power of attorney in favor of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the member, as annexures.*

*The Joint Bidding Agreement should be executed on a non-judicial stamp paper of appropriate value as relevant to the place of execution*

*For a Joint Bidding Agreement executed and issued overseas, the document will also have to be legalised by the Indian Embassy and appropriately notarised in the relevant jurisdiction. However, the power of attorney provided by Bidders from countries that have signed the Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming apostille certificate.*

## SECTION 10 - FORMAT OF POWER OF ATTORNEY FOR LEAD MEMBER OF THE CONSORTIUM

*[To be executed by all members of the Consortium]*

Whereas India Trade Promotion Organization ( "**Tendering Authority**") has invited proposals from bidders for has invited proposals by its request for proposal bearing no **ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01**("RFP") for selection of a Developer cum Operator of a 5 (five) Star Hotel at International Exhibition-cum-Convention Center (IECC) Pragati Maidan ("**Project**").

And whereas, [name of Party], [name of Party] and [name of Party] are desirous of coming together as a consortium ("**Consortium**") to submit a proposal for the provision of the Project in accordance with the terms and conditions of RFP and other connected documents in respect of the Project.

And whereas, it is necessary for the members of the Consortium to designate \_\_\_\_\_ as the Lead Member with all necessary power and authority to do for and on behalf of the Consortium, all acts, deeds and things as may be necessary in connection with the Consortium's proposal for the RFP.

And whereas, the capitalized terms in this power of attorney shall, unless defined herein, have the meaning ascribed thereto under the RFP.

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS,

We, M/s [name of Party] having our registered office at [registered address], and M/s. [name of Party], having our registered office at [registered address], (hereinafter collectively referred to as the "**Principals**") do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s [name of Lead Member], having its registered office at [registered address], being one of the members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the "**Attorney**") and hereby irrevocably authorize the Attorney (with power to sub- delegate to any person) to conduct all business for and on behalf of the Consortium and any one of us during the Selection Process and, in the event the Consortium is declared the Successful Bidder, until the date the Concession Agreement is signed, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its proposal, including but not limited to signing and submission of all applications, proposals and other documents and writings, accepting the Letter of Award, participating in pre-proposal and other conferences, responding to queries, submitting information/ responses to the Tendering Authority, signing and executing undertakings consequent to acceptance of the proposal of the Consortium and generally dealing with the Tendering Authority in all matters in connection with or relating to or arising out of the Consortium's proposal and upon award thereof until the date the specified in the joint bidding agreement dated executed by the Principals and the Lead Member pursuant to the RFP\_\_.

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

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY

ON THIS [date in words] DAY OF [month] [year in 'YYYY' format].

SIGNED, SEALED & DELIVERED

For and on behalf of SECOND MEMBER by: [Signature]

[Name] [Designation] [Address]

SIGNED, SEALED & DELIVERED

For and on behalf of THIRD MEMBER by:

[Signature] [Name] [Designation] [Address]

In presence of:

1. [Signature, name and address of witness]
2. [Signature, name and address of witness]

**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 or official seal of all members in accordance with the required procedure.*

*Wherever required, the executant shall submit for verification the extract(s) of the charter documents and or documents such as a resolution/ power of attorney in favor of the person executing this power of attorney for the delegation of power hereunder.*

*The power of attorney should be executed on a non-judicial stamp paper of appropriate value as relevant to the place of execution.*

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

## SECTION 11 - FORMAT FOR POWER OF ATTORNEY FOR AUTHORIZED REPRESENTATIVE

*[To be stamped in accordance with the relevant Stamp Act]*

Power of Attorney for submitting the Technical Bid and participating in e- Auction process.

KNOW ALL MEN BY THESE PRESENTS, WE, [●] *[name and address of the registered office]* do hereby irrevocably constitute, nominate, appoint and authorize Mr./ Ms. [●] (Name), son/ daughter/ wife of [●] holding a Permanent Account No/ valid passport *[details to be inserted e.g. number, validity, etc.]* and presently residing at [●], who is presently employed with us and holding the position of [●], as our true and lawful attorney (hereinafter referred to as the "**Attorney**") to do in our name and on our behalf, all such acts, deeds, matters and things as are necessary or required in connection with or incidental to submission of our Proposal for [●] ("**Property**") in response to the RFP documents no. dated issued by ITPO including but not limited to signing and submission of Bid, all applications, affidavits, undertakings and other documents and writings, participate in bidders and other conferences and providing information/ responses to ITPO, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of Bid (including executing Definitive Documents with ITPO, if selected as the Successful Bidder), representing us in all matters before ITPO and/ or any other Governmental Authority or any person, and generally dealing with ITPO and/ or any other Governmental Authority or any person in all matters in connection with or relating to or arising out of our bid for the said Property.

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

IN WITNESS WHEREOF WE, [●], THE ABOVE-NAMED PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS [●] DAY OF [●], 20[●]

For [●]

*[Signature, name, designation and address]*

Witnesses:

- 1.
- 2.

Accepted Notarised

*[Signature, name, designation and address of the Attorney]*

**Notes:**

*The mode of execution of the power of attorney should be in accordance with the procedure, if any, laid down under Applicable Laws and the charter documents of the Executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*

*Wherever required, the Bidder shall submit for verification of the extract of the charter documents and documents such as a board or shareholders resolution authorizing the execution of this power of attorney.*

*Power of Attorney should be executed on a non-judicial stamp paper of appropriate value as relevant to the place of execution.*

*For a power of attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and appropriately notarised in the relevant jurisdiction. However, the power of attorney provided by Bidders from countries that have signed The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming apostille certificate.*

**SECTION 12 - FORMAT OF BANK GUARANTEE FOR PERFORMANCE SECURITY****BANK GUARANTEE FORMAT**For RFP Number: **ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01**

(BANK GUARANTEE ON NON-JUDICIAL STAMP PAPER OF Rs.100)

WHEREAS M/s. \_\_\_\_\_ [*Name and Address of the Bidder or Lead Member of Consortium, as applicable*] having their registered Office at \_\_\_\_\_ [*Address of the Bidder's registered office*] ("**Bidder**") wish to participate in the RFP No. \_\_\_\_\_ for \_\_\_ of Selection of Developer cum Operator of a 5 (five) star hotel at International Exhibition-cum-Convention Center Pragati Maidan ("**IECC**") for the India Trade Promotion Organization and WHEREAS a Bank Guarantee for (hereinafter called the "**Beneficiary**") Rs. 75,00,00,000/- (Rupees Seventy Five Crores) valid till \_\_\_ [*mention here date of validity of this Guarantee which will be 1 (One) year beyond the proposed date of Operationalization of hotel*] ("**Bank Guarantee**") which is required to be submitted by the Bidder along with the Proposal as per the terms of the request for proposal bearing no **ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01** ("**RFP**"). The capitalized terms herein, unless the context otherwise requires, shall have the meaning ascribed thereto under the RFP.

We, \_\_\_\_\_ [*Name of the Bank and address of the Branch giving the Bank Guarantee*] ("**Guarantor**") having our registered Office at \_\_\_\_\_ [*Address of Bank's registered office*] hereby give this Bank Guarantee No. \_\_\_\_\_ dated \_\_\_\_\_ and hereby agree unequivocally and unconditionally without any demur, reservation, recourse, contest or protest and without reference to the Bidder to pay immediately on demand in writing from the Beneficiary or any officer authorized by it in this behalf any amount not exceeding Rs. \_\_\_\_\_ [*amount of Bid Security*] (Rupees as applicable \_\_\_\_\_) (in words) to the said Beneficiary on behalf of the Bidder, and irrespective of whether the claim of the Beneficiary is disputed by the Bidder or not.

We, \_\_\_\_\_ [*Name of the Bank*], as the Guarantor also agree that withdrawal of the Proposal or part thereof by the Bidder within its validity or non-signing of Concession Agreement or non-adherence to the timelines and other terms and conditions of the RFP or the Concession Agreement being signed by the Bidder would constitute a default on the part of the Bidder and that this Bank Guarantee is liable to be invoked and encashed within its validity by the Beneficiary in case of any occurrence of a default on the part of the Bidder and that the encashed amount is liable to be forfeited by the Beneficiary.

This Bank Guarantee shall be valid and binding on the Guarantor up to and inclusive of \_\_\_\_\_ [*validity of the Bank Guarantee*] and shall not be terminated by notice or by Guarantor change in the constitution of the Bank or the Bidder or by any reason whatsoever and our liability hereunder shall not be impaired or discharged by any extension of time or variations or alterations made, given, conceded with or without our knowledge or consent by or between the Bidder and the Beneficiary.

It shall not be necessary for the Beneficiary to proceed against the Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Guarantor, notwithstanding any other security which the Beneficiary may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Guarantor hereunder, be outstanding or unrealized.

We, the Guarantor, further undertake not to revoke this Bank Guarantee during its currency except with the previous express consent of the Beneficiary in writing.

The Guarantor declares that it has power to issue this bank Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Bank Guarantee for and on behalf of the Guarantor.

NOTWITHSTANDING anything contained hereinbefore the Guarantor's liability under this Bank Guarantee is restricted to Rs. \_\_\_\_\_ [*amount of Bid Security*] (Rupees \_\_\_\_\_ (in words)). This Bank Guarantee shall remain in force till \_\_\_\_\_ [*date of validity of the Guarantee*]. Unless demands or claims under this Bank Guarantee are made to us in writing on or before \_\_\_\_\_ [*date should be 1 month after the above validity period of this Bank Guarantee*], all rights of Beneficiary under this Bank Guarantee shall be forfeited and we shall be released and discharged from all liabilities there under.

Place:

Date:

\_\_\_\_\_  
Please mention here complete Postal Address  
of the Bank with Branch Code, Telephone, Fax  
Nos. and Email addresses.

\_\_\_\_\_  
Signature of the  
Bank's authorized Signatory  
with Official Seal.

**NAME OF DESIGNATED BANKS:**

1. All Nationalized Banks including Public Sector Banks
2. Private Sector Banks including and limited to (i) Axis Bank (ii) ICICI Bank (iii) HDFC Bank (iv) HSBC (v) Standard Chartered Bank (vi) CITI Bank.
3. Bank Guarantees of Cooperative Banks are not acceptable.

**ANNEXURE – 1: FORMAT OF CERTIFICATE TO BE PROVIDED BY THE STATUTORY AUDITOR OF THE BIDDER AND/OR CONSORTIUM MEMBERS.**

*(To be provided by the statutory auditor on their letter head)*

**Certificate from the Statutory Auditor**

This is to certify that [*name of entity*] [*registered address*] has the net-worth and turnover shown below:

| Year    | Net worth in figures in INR | Net worth in words in INR |
|---------|-----------------------------|---------------------------|
| 2016-17 |                             |                           |
| 2017-18 |                             |                           |
| 2018-19 |                             |                           |

| Year    | Turnover in figures in INR | Turnover in words in INR |
|---------|----------------------------|--------------------------|
| 2016-17 |                            |                          |
| 2017-18 |                            |                          |
| 2018-19 |                            |                          |

[*Name of Authorized Signatory, Designation*] [*Name of auditor*]

[*Signature of authorized signatory*] [*Seal of auditor*]

**Note:**

1. *In case the Bidder does not have a statutory auditor, it may provide the certificate from practicing Chartered Accountant.*
2. *For the purpose of evaluation of bidders, the conversion rate of such a currency into INR shall be the daily representative exchange rate published by the IMF as on 7 (Seven) days prior to the Last Date of Submission of tender including extension(s) given if any.*

**ANNEXURE – 2: FORMAT OF CERTIFICATE TO BE PROVIDED BY THE STATUTORY AUDITOR FOR PROOF OF OWNERSHIP / DEVELOPMENT / MANAGEMENT / OPERATION, AS APPLICABLE, FOR HOTEL PROPERTY.**

*[To be provided by the statutory auditor on their letter head]*

**Certificate from the Statutory Auditor**

This is to certify that [*name of entity*] [*registered address*], owns/has developed/is managing/is operating (as applicable) the 5 (five) Star Property\_\_at\_\_\_\_[*Insert Name and Address of Property*] for \_\_\_years. The annual turnover for this property in the 3 (three) years \_\_\_[*Mention Financial Years within last 10 Years*] is shown below:

| <b>Year</b> | <b>Turnover in figures in INR</b> | <b>Turnover in words in INR</b> |
|-------------|-----------------------------------|---------------------------------|
| _____       |                                   |                                 |
| _____       |                                   |                                 |
| _____       |                                   |                                 |

[*Name of Authorized Signatory, Designation*] [*Name of auditor*]

[*Signature of authorized signatory*] [*Seal of auditor*]

Note:

1. *In case the Bidder does not have a statutory auditor, it may provide the certificate from practicing Chartered Accountant.*
2. *For the purpose of evaluation of bidders, the conversion rate of such a currency into INR shall be the daily representative exchange rate published by the IMF as on 7 (Seven) days prior to the Last Date of Submission of tender including extension(s) given if any.*

ANNEXURE – 3: DRAFT OF CONCESSION AGREEMENT (*Attached separately*)

ANNEXURE – 4: LAYOUT OF THE IECC (*Attached separately*)

## ANNEXURE – 5: INTEGRITY PACT

This integrity pact (“**Integrity Pact**”) made this .....day of \_\_\_\_\_, 20\_\_\_\_

### **BETWEEN**

Tendering Authority, (hereinafter referred to as the “**Authority**” which term shall unless excluded by or is repugnant to the context and meaning thereof, be deemed to include its chairman, or member, executive directors, officers or any of them specified by the chairman in this behalf and shall also include its successors and assigns) of the **One Part**;

### **AND**

[●], a [●] registered under [●] having its [registered office/place of business] at [●] represented by its authorized signatory [●], (hereinafter referred to as the “**Bidder/Contractor**” (which term shall unless excluded by or is repugnant to the context or meaning thereof, be deemed to include its heirs, representatives, successors and assigns of the **Other Part**.

WHEREAS the Authority intends to award, under laid down organizational procedures, RFP/contract for Selection of Developer cum Operator of 5 Star Hotel at International Exhibition-cum-Convention Center (IECC), Pragati Maidan

(The Authority and the Bidder/Contractor are hereinafter collectively referred to as the “**Parties**” and individually as a “**Party**”)

The capitalized terms not defined herein shall have the same meaning as ascribed to such terms in the RFP (*as defined hereafter*)

### **WHEREAS**

- A. The Authority shall discharge its functions and will conduct its relationship with the Bidder/Contractor as per business principles and values, proper compliance with all relevant laws and regulations, and the principles of natural justice, ethics, equity, fairness and transparency;
- B. The Authority is desirous to make its business mechanism more transparent, and therefore, to ensure strict adherence of the aforesaid objectives/goals, the Authority hereby adopts the instrument developed by the renowned international nongovernmental organization 'Transparency International (“**TI**”) having its headquarters at Berlin, Germany. The Authority shall appoint an external independent monitor (“**EIM**”) who shall monitor the process and the execution of the contract for compliance with the principles mentioned above under the request for proposal bearing no **ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01 (“RFP”)**;
- C. The Bidder is submitting a proposal under the RFP (“**Proposal**”) to the Authority for selection of Developer cum Operator of 5 (five) star hotel as a part of International Exhibition-cum-Convention Center (“**IECC**”), at Pragati Maidan and the Bidder is signing the contract for submission of Proposal.

NOW, THEREFORE, THIS INTEGRITY PACT HEREBY WITNESSETH:

SECTION 1. Commitment of the Authority

- 1.1 That the Authority undertakes to commit itself to take all measures necessary to prevent corruption and to observe the following principles:
- i. No employee of the Authority, personally or through family members, will in connection with the RFP for, or the execution of a contract, demand, take a promise for or accept for him/her or third person, any material or immaterial benefit, which he/she is not legally entitled to.
  - ii. The Authority will, during the RFP process treat all Bidders with equity and reason. The Authority will in particular, before and during the RFP process, provide to all Bidders the same information and will not provide to any Bidder confidential/additional information through which the Bidder could obtain an advantage in relation to the RFP process or the contract execution.
  - iii. The Authority will take all measures to exclude all known prejudiced persons from the RFP process.
- 1.2 That if the Authority receives information on the conduct of any of its employee which is a criminal offence under relevant anti-corruption laws of India, or if there is a substantive suspicion in this regard, the Authority will inform its vigilance department to initiate appropriate action.

SECTION 2. Commitments of the Bidder/Contractor

- 2.1 That the Bidder/Contractor undertakes to commit itself to take all measures necessary to prevent corruption. Further the Bidder/Contractor undertakes to commit itself to observe the following principles during his participation in the RFP process and during the contract execution:
- i. The Bidder/Contractor has not offered, promised or given and will not, directly or through any other person or firm, offer, promise or give to any of the Authority's employees involved in the RFP process or the execution of the contract or to any third person, any material or immaterial benefit which he/she is not legally entitled to, in order to obtain in exchange any advantage of any kind whatsoever during the RFP process or during the execution of the contract.
  - ii. The Bidder/Contractor has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favor, any material or immaterial benefit or other advantage, commission, fees brokerage or inducement to any official of Authority or otherwise in procuring the contract under the RFP or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with the Government, including the Authority, for showing or forbearing to show favor or disfavor to any person in relation to the contract or any other contract with the Government, including the Authority.

- iii. The Bidder/Contractor has not entered and will not enter with other bidders into any undisclosed agreement or understanding, whether formal or informal. This applies in particular to prices, specifications, certifications, subsidiary contracts, submission or non-submission of Proposals or any other actions to restrict competitiveness or to introduce cartelization in the bidding process.
- iv. The Bidder has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to the Authority or any of its functionaries, whether officially, or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.
- v. The Bidder/Contractor has not committed and undertakes not to commit any offence under the applicable anti-corruption laws of India. Further, the Bidder/Contractor will not use improperly, for purposes of competition or personal gain, or pass on to others, any information or document provided by the Authority as part of the business relationship, regarding plans, technical proposals and business details, including information contained or transmitted electronically.
- vi. The Bidder/Contractor shall, when presenting its bid, disclose any and all payments it has made, is committed to or intends to make to agents, brokers or any other intermediaries in connection with the award of the contract.
- vii. The Bidder/Contractor shall inform the EIM:
  - a) If it receives demand for an illegal/undue payment/benefit.
  - b) If it becomes aware of any unethical or illegal payment/benefit.
  - c) If it makes any payment to any Authority's associate(s).
- viii. The Bidder(s)/Contractor(s) will not submit a frivolous/ false/bogus complaints with regard to the above with *mala fide* intention.
- ix. That the Bidder/Contractor shall not instigate any person to commit offences mentioned in Clause 2.1 above or be an accessory to such offences.
- x. The Bidder/Contractor shall not lend to or borrow any money form or enter into any monetary dealings or transaction, directly or indirectly, with any employee or officer of the Authority.

### SECTION 3. Disqualification from RFP and exclusion from future contracts

- 3.1 That if the Bidder(s), during RFP process or before the award of the contract or during execution of the contract/work has committed a transgression in violation of Section 2 or in any other form such as to put his reliability or credibility as Bidder(s)/ Contractor into question, the Authority is entitled to immediately disqualify it from the RFP process or to terminate the contract for such reason.

- 3.2 That if the Bidder/Contractor against whom any action in terms of Section 3.1 above has already been taken in any other RFP/contract process, again commits a transgression in violation of section 2 such as to put his reliability or credibility into question, the Authority is entitled also to debar the Bidder/Contractor from future RFP/contract processes. The imposition and duration of the debarment will be determined by the severity of the transgression. The severity will be determined taking into consideration the circumstances of the case, in particular the number of transgression, the position of the transgressor within the company hierarchy of the bidder and the amount of the damage. The debarment will be imposed for a period minimum of 6 (six) months and maximum period of 5 (five) years.
- 3.3 That the Bidder/Contractor accepts and undertakes to respect and uphold the Authority's absolute right to resort to and impose such debarment and further accepts and undertakes not to challenge or question such debarment on any ground.
- 3.4 That if the Bidder/Contractor applies to the Authority for premature revocation of the debarment and proves to the satisfaction of the Authority that he has installed a suitable and effective corruption prevention system and also restored/recouped the damage, if any, caused by it, the Authority may, if thinks fit, revoke the debarment prematurely considering the facts and circumstances of the case, and the documents/evidence adduced by the Bidder/Contractor for first time default.
- 3.5 That a transgression is considered to have occurred if the Authority is fully satisfied with the available documents and evidence submitted along-with EIM's recommendations/ suggestions that no reasonable doubt is possible in the matter. The decision of the Authority to the effect that a transgression of the provisions of this Integrity Pact has been committed by the Bidder shall be final and conclusive on the Bidder.

#### SECTION 4. Previous transgression

- 4.1 That the Bidder/Contractor declares that no previous transgression occurred in the last 5 (five) years with any other company in any country or with any other Public-Sector Enterprise in India conforming to the TI approach that led to debarment/ disqualification and could justify his exclusion from the RFP process.
- 4.2 That if the Bidder/Contractor makes incorrect statement on the subject, he can be disqualified from the RFP process or the contract, if already awarded can be terminated for such reason and it may be considered for debarment for future RFP/contract processes.

#### SECTION 5. Compensation for damages

- 5.1 That if the Authority has disqualified/debarred the Bidder from the RFP process prior to the award under Section 3 or 4 above, the Authority is entitled to forfeit the earnest money deposited/bid security provided by the Bidder under the RFP.
- 5.2 That if the Authority has terminated the contract under Section 3 or 4, or if the Authority is entitled to terminate the contract under Section 3 or 4, the Authority shall be entitled to demand and recover from the Bidder/ Contractor, damages equivalent to 25% (twenty five percent) of the contract value or the amount equivalent to security deposit or performance bank guarantee, whichever is higher.
- 5.3 That the Bidder/Contractor agrees and undertakes to pay the said amount without protest or

demur subject only to condition that if the Bidder/Contractor can prove and establish to the satisfaction of the Authority that the disqualification/ debarment of the bidder from the RFP process or the termination of the contract after award of the contract has caused no damage to the Authority.

SECTION 6. Equal treatment of all Bidders/Contractors/Sub-contractors/ associates

- 6.1 That the Bidder/Contractor undertakes to get this Pact signed by all the consortium members, subcontractor(s) and associate(s), as may be applicable, whose value of the work contribution exceeds Rs. 5,00,00,000 (Rupees five crore only), and to submit the same to the Authority along-with the RFP document/ contract before contract signing.
- 6.2 That sub-contractor(s)/ associate(s) engaged by the Bidder, with the approval of the Authority after signing of the contract, and whose value of the work contribution exceeds Rs.5,00,00,000 (Rupees five crore only) crores will be required to sign this Pact by the Bidder, and the same will be submitted to the Authority before doing/ performing any act/ function by such sub-contractor(s)/ associate(s) in relation to the contract/ work.
- 6.3 That the Authority will disqualify from the RFP process all Bidder(s) who do not sign this Pact or violate its provisions or fails to get this Pact signed in terms of Section 6.1 or 6.2 above.
- 6.4 That if the Bidder/Contractor(s) does/ do not sign this Pact or violate its provisions or fails to get this Pact signed in terms of Section 6.1 or 6.2 above, the Authority will terminate the contract and initiate appropriate action against such Contractor/Bidder(s).

SECTION 7. Allegations against bidders/contractors/sub-contractors/ associates.

- 7.1 That if the Authority receives any information of conduct of a Bidder/ Contractor, or of an employee or a representative or an associate of a Bidder/its contractor or sub- contractor which constitutes corruption, or if the Authority has substantive suspicion in this regard, the Authority will inform the vigilance department for appropriate action. The Bidder/Contractor shall provide necessary information and documents in this regard and shall extend all possible assistance for the purpose of examination of the same.

SECTION 8. EIM, number depending on the size of the contract to be decided by the Chairman of the Authority.

- 8.1 That the Authority shall appoint competent and credible EIMs for the purpose of this Integrity Pact. The task of the EIM shall be to review independently and objectively, whether and to what extent of compliance of this Integrity Pact by the Parties. The EIM shall also enquire into any complaint alleging transgression of any provision of this Integrity Pact made by the Bidder/ Contractor or Authority.
- 8.2 That the EIM is not subject to any instructions by the representatives of the Parties and shall perform his/her functions neutrally and independently. He/she will report to the chairperson of the board of the Authority.

- 8.3 That the Bidder/Contractor accepts that the EIM has the right to access without restriction to all project documentation of the Authority including that provided by the Bidder/Contractor. The Bidder/Contractor will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to sub-contractors and associates of the Bidder/Contractor. The EIM is under obligation to treat the information and documents of the Authority and Bidder/Contractor, its sub- contractors and associates with confidentiality.
- 8.4 That the Authority will provide to the EIM sufficient information about all meetings between the Parties related to the project provided such meetings could have an impact on the contractual relations between the Authority and the Contractor/Bidder. The parties offer to the Monitor the option to participate in such meetings.
- 8.5 That as soon as the EIM notices, or believes to notice, a violation of this Integrity Pact, he/she will so inform the management of the Authority and request the management to discontinue or heal the violation, or to take other relevant action. The EIM can in this regard submit his/her recommendations/ suggestions. Beyond this, the EIM has no right to demand from the Parties that they act in a specific manner, refrain from action or tolerate action.
- 8.6 That the EIM shall submit a written report to the chairperson of the board of the Authority within 2 (two) weeks from the date of reference or intimation to him/her by the Authority and, should the occasion arise, submit proposals for correcting problematic situations.
- 8.7 That if the EIM has reported to the chairperson of the board a substantiated suspicion of an offence under relevant anti-corruption laws of India and the Chairperson has not, within reasonable time, taken visible action to proceed against such offence or reported it to the vigilance department, the EIM may also transmit this information directly to the central vigilance commissioner, Government of India.
- 8.8 The term 'EIM would include singular and plural.

#### SECTION 9. Pact duration.

- 9.1 That this Integrity Pact comes into force when the Bidder/Contractor submits its Proposal under this RFP has signed it.

#### SECTION 10. Miscellaneous provisions.

- 10.1 That this Integrity Pact is subject to Indian Laws. Place of performance and jurisdiction is the corporate headquarter/the regional headquarter/ offices of the Authority, as applicable.
- 10.2 That the changes and supplements as well as termination notices need to be made in writing.
- 10.3 That if the Contractor/Bidder is a partnership or a consortium, this Integrity Pact must be signed by all the partners and consortium members, or their authorized representatives.
- 10.4 That should one or several provisions of this Pact turn out to be invalid, the remainder of this Pact remains valid. In this case the Parties will strive to come to an agreement to their original

intentions.

For the Bidder/~~Lead Member of the Consortium~~

Place:

Date:

*[Name of the Bidding Company/ Lead Member of the Consortium]:*

ANNEXURE – 6: FORMAT OF UNDERTAKING, TO BE FURNISHED ON COMPANY LETTER HEAD WITH REGARD TO BLACKLISTING/ NON- DEBARMENT, BY ORGANISATION

UNDERTAKING REGARDING BLACKLISTING / NON – DEBARMENT

To,

Tendering Authority

We hereby confirm and declare that we, M/s. \_\_\_\_\_, is not blacklisted/de-registered/ debarred by any Government department/Public Sector Undertaking/ Private Sector/ or any other agency for which we have executed/ undertaken the works/ services during the last 3 (three) years as on \_\_\_\_\_ [Please insert date of submission of Proposal].

For -----

Authorized Signatory

[Signature and stamp]

Place:

## ANNEXURE –7: TECHNICAL DETAILS WITH RESPECT TO ELECTRONIC BIDDING

e-Bidding Portal: <https://www.mstcecommerce.com/auctionhome/propertysale/index.jsp>

### **Settings**

1. Bidders are required to use a computer with Windows XP (service pack 3 or above)/Windows 7/8/10.
2. Bidders are required to open the portal using Internet Explorer browser.
3. Bidders will be required to have Java 32 bit (x86) latest version installed in their computers. In case more than one version is installed, only the latest 32 bit version has to be retained, other have to be removed. Java can be downloaded from <http://www.oracle.com/technetwork/java/javase/downloads/jre8-downloads-2133155.html>

### **DO NOT DOWNLOAD 64 Bit version**

4. Bidders will be required to have a Class 3 signing type digital signature (in the form of USB pen drive) issued by a certified authority of Government of India. Detailed list of certified authorities is available at [http://www.cca.gov.in/cca/?q=licensed\\_ca.html](http://www.cca.gov.in/cca/?q=licensed_ca.html).

### **Registration**

1. Any bidder interested in participation is required to go to the above-mentioned portal and click on the “register link”.
2. On the page that appears a KYC form will have to be filled by the bidder giving their details.
3. Once the form is filled up, the bidder is required to click on the submit button to submit the form.
4. Once the form is submitted the bidder will receive an email on their registered email address, prompting them to submit KYC documents and fee in registered e-mail.

The following documents will have to be submitted:

- Self-attested GST registration of the Bidder
- Self-attested Income Tax PAN Card of Company
- Self-attested Income Tax PAN Card of Authorized Representative.
- Copy of email confirmation Letter received from MSTC after successful completion of on-line registration and containing Bidder registration details of the bidder.
- Cancelled cheque of the company or RTGS Mandate Form duly filled in and verified by your Banker. RTGS mandate is available at <https://www.mstcecommerce.com/auctionhome/RenderFileGeneralAuctions.jsp?fil>

[e=RTGS-Mandate-Form.pdf](#).

- A non-refundable registration fee of Rs 1000/- plus applicable tax paid online through [http://www.mstcecommerce.com/auctionhome/e-Payment\\_deact.jsp](http://www.mstcecommerce.com/auctionhome/e-Payment_deact.jsp). Bidders can access this link through the username and password created by them while filling the KYC form above.
- Bidders will be required to upload these documents on the e-Bidding portal for activation of their account.
- Bidders will also be required to send these documents along with fee details to [mstcnro@mstcindia.co.in](mailto:mstcnro@mstcindia.co.in) with the subject, "Property Registration". Once the documents and fee are submitted the bidder's account will be activated in 2 (two) working days from receipt of the documents.

### **Submission of Fees through e-Payment**

1. After the account has been activated, a bidder has to login in the portal with their username and password.
2. After the login the bidder will see an option for e-Payment.
3. The bidder has to click on e-Payment, select the event number.
4. Select the event from the drop down, select the payment type (RFP Fee or Bid Security), the amount will be displayed. The bidder can pay the amount using Net Banking or RTGS/NEFT. If paying through Net banking, Please ensure that address on the top of the browser has https. i.e. <https://www.mstcecommerce.com/auctionhome/propertysale/index.jsp>
5. The Bidders are required to make separate payments for each type of payment as per the tender document.
6. It may be noted that in case the bidder makes a common payment the same may not be authorized by the system and will only be refunded after the completion of RFP and auction. (In such cases the bidder may be required to make the payment twice.)

### **Submission of Bids**

1. To submit a bid, the bidder must register Digital Signature. To register DSC, click on Register DSC. On the box that appears, select the Digital Signature and press OK.
2. Then bidder has to click on "Click for Live Events" button on the home page.
3. For participating in RFP, a bidder can to select Stage -1 Submission, while to participate in Forward Auction a bidder has to click on Forward Auction as shown below
4. On clicking the Stage- 1 Bid submission, the auction number will be displayed. Click on the event number to proceed to tender submission Screen.
5. In the tender submission screen Bidder will see Acceptance of Terms & Conditions, Eligibility Terms & Conditions, Price Offer and Attach documents

6. The first step towards submitting the bid is Accept Terms & Conditions on the left side. Click on Accept Terms & Conditions and fill the form given therein. Conditions with agree have to be necessarily agreed, while in the conditions with empty remarks field bidder can give their comments.
7. After the Accept Terms & Conditions are saved, click on attach documents on the top.
8. Once the bidder selects from above, they will be required to upload documents for the said event. A list of previously uploaded files will be visible at the bottom of the screen. To revise a document Please select the same from the dropdown and upload the new document. Bidders can upload one document against each selection, document can be of any size. Only PDF documents can be uploaded.
9. After the documents have been uploaded, the bidder can proceed to saving the Eligibility Terms & Conditions and Price Offer fields. To fill Accept Eligibility Terms & Conditions form click on Accept Eligibility Terms & Conditions against any line item and fill the form therein.
10. Once Eligibility Terms & Conditions terms are saved, proceed with submitting the Price Offer, here the bidder has to input the Price Offer as per the RFP terms and conditions.
11. After the documents have been uploaded, click on final submit to finally submit the bid. In case of any amendments after final submit, click on delete bid button to delete the Eligibility Terms & Conditions and price bids and resubmit the same. **The Bidder should also note that a Bid will be considered as submitted if and only if the Bidder has made such submission through the "Final Submission" button. Only such Bids will be opened which have been finally submitted. It is further clarified that saving of Technical Bid and the Price Offer without final submission will be treated as non-submission of bid.** e- Auction:
12. The bidders who qualify for e-auction as per rules stipulated in the RFP document will be intimated about their qualification for electronic auction through email. It shall be the sole responsibility of the Bidder to regularly check its email. The Licensing Authority will not be responsible for non-receipt of email by the Bidder and its consequences.
13. E-auction is the process of inviting binding Price Offer from qualified bidders through internet for the purpose of determination of the Preferred Bidder. During this process, the qualified bidder will be able to submit its Price Offer as many times it wishes. The qualified bidder will remain anonymous to other qualified bidders participating in the electronic auction process as well as to the Licensing Authority. The qualified bidders will be able to see the prevailing highest Price Offer, but the name of the highest qualified bidder at any point of time will not be displayed. The qualified bidder shall have to put its Price Offer above the displayed highest bid become the highest qualified bidder. The electronic auction process will have a scheduled start and close time which will be displayed on screen. A qualified bidder will be able to put its Price Offer after the start of bid time and till the close time of electronic auction. The current server time (IST) will also be displayed on the screen. In the event a bid is received during the last 8 (eight) minutes before the scheduled close time of electronic auction, the close time of electronic auction will be automatically extended by 8 (eight) minutes from the last received bid time to give equal opportunity to all other qualified bidders. This process of auto extension will continue till there is a period of 8 (eight) minutes during which no Price Offer are received.

14. For example, assuming that the initial scheduled close time for a particular electronic auction is 1:00 pm and a Price Offer is received at 12:55 pm, the scheduled close time shall be revised to 1:03 pm. Again, if a Price Offer is received at 1:01 pm, the scheduled close time shall be revised to 1:09 pm and so on. In the event that there is no further Price Offer received till 1:09 pm, the electronic auction will close at 1:09 pm. The revised close time will be displayed on screen and the qualified bidders should keep refreshing its webpage to get the latest information.
15. The above example is only illustrative and meant for guidance only.
16. During the electronic auction, the bidders shall be required to sign their Bids with their respective digital signature certificate.
17. In case of 2 or more bidders have quoted the same price bid, the bid submitted earlier will be given preference.

For any queries related to system and system settings, the bidder may contact MSTC helpdesk at:

Phone numbers 03322901004, 01123212357, 01123215163, 01123217850

Email: [mstcnro@mstcindia.co.in](mailto:mstcnro@mstcindia.co.in), [chiragsindhu@mstcindia.co.in](mailto:chiragsindhu@mstcindia.co.in) & [sdsharma@mstcindia.co.in](mailto:sdsharma@mstcindia.co.in)

The helpdesk is available on all working days from 10:00 AM to 05:00 PM IST.

## ANNEXURE – 8 TECHNICAL PROPOSAL SUBMISSION LETTER

[Location, Date]

To,  
Executive Director  
ITPO  
Pragati Maidan,  
New Delhi

RFP No: ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01 for Proposal for Selection of Developer cum Operator of 5 Star Hotel at International Exhibition-cum-Convention Center (IECC) Pragati Maidan, New Delhi.

With reference to your RFP Document No: **ITPO/MSTC/Land Lease for 5-Star Hotel/RFP/20-21/01**, we, having examined all relevant documents and understood their contents, hereby submit our Technical Proposal in respect of the development of a hotel at IECC, New Delhi (“Project”). The Proposal is unconditional and unqualified.

We are submitting our Proposal as [sole Bidder/ Consortium comprising [insert a list with full name and address of each member]].

Our Proposal is binding upon us, subject only to the modifications resulting from pre-bid meeting in accordance with the RFP.

We understand you are not bound to accept any Proposal you receive. Further:

1. We acknowledge that the Tendering Authority / Licensing Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the bidder, and we certify that all information provided in the Proposal and in the supporting documents 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.
2. This statement is made for the express purpose of appointment as the successful bidder for the aforesaid Project.
3. We shall make available to the Tendering Authority / Licensing Authority any additional information it may deem necessary or require for supplementing or authenticating the Proposal.
4. We acknowledge the right of the Tendering Authority / Licensing Authority to reject our Proposal without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
5. We certify that in the last 3 (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 us, 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.

6. We declare that:
  - (a) We have examined and have no reservations to the RFP, including any addenda/ amendments/ corrigenda issued by the Tendering Authority / Licensing Authority;
  - (b) We do not have any conflict of interest in accordance with the terms of the RFP;
  - (c) 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 the RFP, in respect of any tender or request for proposals issued by or any agreement entered into with the Tendering Authority / Licensing Authority or any other public sector enterprise or any government, Central or State; and
  - (d) We hereby certify that we have taken steps to ensure that no person acting for us or on our behalf will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
7. 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 declare the Selected Bidder, without incurring any liability to the Bidders.
8. We declare that we, or any of our Associates, are not submitting any other proposal for selection as bidder, either as a member of any other Consortium or otherwise.
9. 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 implement the Project or which relates to a grave offence that outrages the moral sense of the community.
10. 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. We further certify that neither we nor any of our members have been barred by the central government, any state government, a statutory body or any public sector undertaking, as the case may be, from participating in any project or bid, and that any such bar, if any, does not subsist as on the date of this RFP.
11. 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.
12. 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 Tendering Authority / Licensing Authority in connection with the selection of Developer or in connection with the Selection Process itself in respect of the above-mentioned Project.
13. We agree and understand that the proposal is subject to the provisions of the RFP.

14. In the event of our being declared the successful bidder, we agree to incorporate a special purpose company under the Companies Act, 2013 within 30 (Thirty) days of the date of the LOA. This special purpose company shall enter into a concession agreement with the Tendering Authority / Licensing Authority in accordance with the agreement prescribed in the RFP. We agree not to seek any changes in the aforesaid form, and agree to abide by the same. We also agree that this special purpose company shall have an office in the National Capital Region of Delhi.
15. We acknowledge that qualification in the Selection Process will be based on the credentials submitted herewith, and, accordingly, undertake to abide by the obligations set out in the Concession Agreement with respect to Change in Ownership.
16. We have studied the RFP and all other documents carefully. We understand that except to the extent as expressly set forth in the concession agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Tendering Authority / Licensing Authority or in respect of any matter arising out of or concerning or relating to the selection process, including the declaration of the successful bidder.
17. This Technical Proposal read with the Financial Proposal through forward e-auction shall be binding on us.
18. We agree and undertake to abide by all the terms and conditions of the RFP.

Yours sincerely,

Signature of Authorized Representative

[In full and initials]:

Name and Title of Signatory:

Name of Bidder/ Lead Member:

Address:

(Name and seal of the Bidder/ Lead Member)