

REQUEST FOR PROPOSAL

FOR

SELECTION OF OPERATOR FOR AIR-CONDITIONED FOOD COURT IN DILLI HAAT, JANAKPURI



December 2014



Delhi Tourism & Transportation Development Corporation

Cost of RFP document (Non Refundable):
Rs. 10,000 /- + Rs. 500 /- (VAT: 5%)

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- I. This Section I of the RFP documents comprises the Disclaimer set forth herein below, the contents as listed below, and will additionally include any Addenda issued by DTTDC.

Invitation for Bids	
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DISCLAIMER

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

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

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

The DTTDC, its employees and advisors make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any

assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way in this Bid Stage.

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

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

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

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 the DTTDC or any other costs incurred in connection with or relating to its Bid. All such costs and expenses will remain with the Bidder and the DTTDC 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.

SECTION I – INFORMATION TO BIDDERS

**INFORMATION AND INSTRUCTIONS FOR BIDDERS FOR E-TENDERING
(Application for inviting open bids)**

NIT No. _____

Delhi Tourism and Transportation Development Corporation invites proposals through e-procurement solution **from eligible bidders for the following work:**

Name & Location of work	Bid Security	Period during which Bid Security and other documents shall be submitted	Bid Due Date	Time & date of Opening of Bid
Selection of Operator for Air Conditioned Food Court in Dilli Haat Janakpuri	Rs. 5,00,000/-	30 th December, 2014 to 19 th February, 2015	19 th February, 2015 by 3.00 p.m	19 th February, 2015 at 3.30 pm

Date of release of RFP Document through E-procurement solution - 29th December, 2014

1. The intending bidder must read the terms and conditions the RFP carefully. He should only submit his bid if he considers himself eligible and he is in possession of all the required documents.
2. Information and instructions for bidders posted on website shall form part of bid document.
3. The RFP consisting set of terms and conditions of the contract to be complied with and other necessary documents can be seen and downloaded from website <https://govtprocurement.delhi.gov.in>.
4. But the bid can only be submitted after uploading the mandatory scanned mentioned in the Sr. No. 10 below. The Bid Security is also acceptable in the form of Bank Guarantee issued by a scheduled bank in the performa as given in Appendix-III.
5. Bidders not registered on the website mentioned above are required to get registered beforehand. For registration on e-procurement website, bidders may contact e-procurement help desk at 6th Floor, C-Wing, Vikas Bhavan – II, (Near Metcalfe House), Civil Lines, Delhi – 110054. Phone: 011 – 23813523 (Monday to Friday, 9.30 AM to 06.00 PM). If needed they can be imparted training on online bidding process as per details available on the website.
6. The bidder must have valid class-III digital signature to submit the bid. Such digital signature must be issued in the name of bidder or its authorized signatory.
7. On opening date, the Bidder can login and see the bid opening process.

8. Bidder can upload documents in the form of JPG format and PDF format.
9. The bidder should quote his offer in the column meant for quoting rate in figures.
10. **List of Documents to be scanned and uploaded within the period of tender submission:**
 - (i) RFP Document Fee Rs. 10,500/- in the form of DD issued by Nationalized/Scheduled bank in favour of Delhi Tourism and Transportation Development Corporation Ltd, payable at New Delhi;
 - (ii) Bid Security in favour of Delhi Tourism and Transportation Development Corporation Ltd. in form of DD/Bank Guarantee issued by nationalized/scheduled bank payable at New Delhi (these instruments issued by a cooperative bank will NOT BE ACCEPTED under any circumstances;
 - (iii) Power of Attorney for signing of Bid in the prescribed format (Appendix – IV);
 - (iv) If applicable, the Power of Attorney for the Lead Member of Consortium in the prescribed format (Appendix-V);
 - (v) Certified copy of the Joint Bidding Agreement, in case of a Consortium, in the format at Appendix – VII;
 - (vi) PAN card;
 - (vii) Income Tax Returns for last 5 (Five) years;
 - (viii) Letter Comprising the Bid in the prescribed format (Appendix – I) along with Annexes and supporting Documents;
 - (ix) Service Tax Registration Certificate;
 - (x) Sales Tax/ VAT Registration Certificate;
 - (xi) Other Applicable Certificates with respect to operation of Eligible Projects such as food licence, shops and establishment certificate etc.;
 - (xii) Proof of operation of eligible projects being claimed by the bidder.

All the documents mentioned above shall have to be scanned and uploaded, and the original Physical copy of the same shall be sent, in a sealed envelope as mentioned in clause 2.13 of RFP documents, to the office of The General Manager, Delhi Tourism and Transportation Development Corporation Ltd., 18-A, DDA – SCO Shopping Complex, Defence Colony, New Delhi - 110024 so as to reach before the Bid Due Date.

Online tender documents submitted by intending bidders shall be opened only of those bidders, whose Bid Security and RFP fees placed in the envelope are found in order.

The Bid Security shall be deposited in the form of Demand Draft in favour of DTTDC Ltd., or Bank Guarantee as prescribed in Appendix III. The undersigned reserves the right to reject any or all the tenders without assigning any reason.

Further details can be seen at <https://govtprocurement.delhi.gov.in>

**The General Manager
DTTDC LTD.**

GUIDELINES / PROCEDURE TO BE FOLLOWED IN INTRODUCTION OF 'E'- TENDERING SOLUTION

1. **Payment of cost of Tender documents:** - The collection of cost of Tender documents shall be through demand draft in favour of DTTDC. The demand draft shall be submitted in original with other documents in the office of The General Manager, DTTDC. The scan copy of the demand draft must also be uploaded electronically with all other requisite documents. The bidders can view / download the tender documents, from the <https://govtprocurement.delhi.gov.in>.
2. **Submission of Bids:** The bidders who are desirous of participating in 'e' tendering shall submit their Financial Proposal in the standard formats prescribed in the Tender documents, displayed at <https://govtprocurement.delhi.gov.in>. The bidder should upload the scanned copies of all the relevant certificates, documents etc., in the <https://govtprocurement.delhi.gov.in> in support of their price bids. The bidder shall sign on all the statements, documents, certificates uploaded by him, owning responsibility for their correctness / authenticity.

Submission of all the bid document/supporting documents in ORIGINAL physical copy before bid due date is mandatory along with electronic copies/scanned copies. Bids submitted electronically but not physically will be summarily rejected. Similarly, bids submitted physically but not electronically will also be summarily rejected. In case of any ambiguity in information provided in electronic copy of Technical Proposal and Physical copy of the same, Physical copy will prevail. In case of ambiguity in information provided in electronic copy of Financial Proposal and Physical copy of the same, the DTTDC will have full discretion to take a decision which includes rejection of bid.

3. **Payment of Bid Security:** The Bid Security shall be in the form of DD issued by a nationalized/scheduled bank issued in favour of **DTTDC Ltd.** have to be submitted. The Bid Security is also acceptable in the form of Bank Guarantee issued by a nationalized/scheduled bank in the Performa as given in Appendix-III. Bank Guarantee issued by a cooperative bank is NOT ACCEPTABLE.
4. **Financial Proposal Opening:** The Financial Proposal will be opened online by the The General Manager, DTTDC at the specified date & time and the result will be displayed on the <https://govtprocurement.delhi.gov.in> which can be seen by all the bidders who participated in the tenders.
5. **Processing of Tenders:** DTTDC will evaluate and process the tenders as done in the conventional tenders and will communicate the decision to the bidder..
6. **Payment of performance Guarantee:** The successful bidder shall submit irrevocable performance guarantee of 10% (Ten percent) of the sum to total Annual Concession Fee for first three years in addition to other deposits mentioned elsewhere in the contract for his proper performance of the contract. This guarantee shall be in the form of Bank Guarantee of any

nationalized/scheduled bank as per the format specified in Schedule B of this agreement. Bank Guarantee

issued by a cooperative bank is NOT ACCEPTABLE.

7. **Participation of Bidders at the time of opening of bids:** Bidders have two options to participate in tendering process at the time of opening of Bids:
 - (i) Bidders can come at the place of opening of bids (electronically) as done in the conventional tender process.
 - (ii) Bidders can see the process online.

9. **Signing of agreement:** After the award of the contract, an agreement shall be signed as done in conventional Tenders

INSTRUCTIONS TO BIDDERS FOR SUBMISSION OF BIDS

1. The bidders should read all the instructions, terms & conditions, contract clauses, nomenclature of items, specifications etc. contained in the RFP document very carefully, before quoting the rates.
2. Any person who submits a bid shall fill up the uploaded financial proposal format, stating his offer.. Financial Quotes, which are submitted in a format other than that provided will be liable for rejection of whole bid without assigning any reason.
4. The RFP document consisting of terms and conditions, various formats needed to be uploaded and other necessary documents can be seen on website <https://govtprocurement.delhi.gov.in>. Bidders are advised to visit the project site, read all the RFP conditions carefully and obtain all necessary information regarding the work before quoting their rates.
5. After submission of the bid the bidder can re-submit revised bid any number of times but before last time and date of submission of bid as notified.
6. While submitting the revised bid, Bidder can revise the financial quote any number of but before last time and date of submission of bid as notified.
7. The Bidder shall quote his rates keeping in mind the specifications, terms & conditions and special conditions.
8. In the event of the bid being submitted by a firm, it must be signed by a person holding a power of attorney authorizing him to do so. Such power of attorney should be produced with the bid.
9. The bidder shall submit the Financial Proposal considering all Taxes.

DELHI TOURISM AND TRANSPORTATION DEVELOPMENT CORPORATION

1. INTRODUCTION

1.1. BACKGROUND

1.1.1. Delhi Tourism and Transportation Development Corporation (the “**DTTDC**”) came into its existence on 12th December, 1975 under the aegis of Government of NCT of Delhi with an object of developing tourism and carrying out other tourism related activities within the ambit of its Memorandum of Association. Ever since its inception DTTDC has undertaken multifarious activities like setting up and operation of Garden of Five Senses, Dilli Haats, Coffee Homes, Canteens, providing of Outdoor Catering Services, Memorials, production of Tourist Literature, Dissemination of Tourism Information, operation of Tourism/Travel Counters, providing of Tours & Transport Services, Adventure Sports activities, development of Lakes and Camping Sites, construction of Bridges, Fly-over, Underpasses and such other infrastructural projects, retail trading of liquor, organizing of Regular Fairs & Festivals, registration of Paying Guest Accommodation etc. The DTTDC had also provided its services for the transport arrangements during the Asian Games 1982 and has coordinated in organizing the Cultural programs during the recently concluded Commonwealth Games. In the past it has also organized mega international events like, Russian Festival, French Festival, setting up of a temporary Dilli Haat at London. The annual turnover of the DTTDC is around Rs.1200 Crores.

DTTDC intends to appoint an operator for the Air Conditioned Food Court on First floor and Usable Roof Top Area in Dilli Haat, Janakpuri through Public Private Partnership (PPP) on Operate, Manage and Transfer (OMT) basis (the “**Project**”). Air conditioned Food Court on first floor comprises of 15 Food Stalls, Kitchens and Court Yard with a common Dining Area and a Usable Roof Top Area for a period of 10 years.

1.1.2. The Successful Bidder, who is either a Company incorporated under the Companies Act, 1956 or undertakes to incorporate itself as such prior to execution of the Agreement (the “**Operator**”), shall be responsible for operation, management and transfer of the Project under and in accordance with the provisions of the agreement (the “**Agreement**”) to be entered

into the Successful Bidder and the DTTDC in the form provided by the DTTDC as part of the Bidding Documents pursuant hereto.

- 1.1.3. The scope of work will broadly include furnish the Food Court with requisite furniture, fixtures, kitchen equipment, obtain various licenses etc. at its own cost and operate, maintain, market, manage and transfer of food court and Usable Roof Top Area during the Agreement Period of 10 years as specified in Article 3.1.1 of the draft Agreement.
- 1.1.4. The draft Agreement sets forth the detailed terms and conditions for grant of the Concession to the Operator, including the scope of Operator’s services and obligations (the “**Concession**”).
- 1.1.5. The statements and explanations contained in this RFP are intended to provide understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Operator set forth in the draft Agreement or the DTTDC’s rights to amend, alter, change, supplement or clarify the scope of work, the Concession to be awarded pursuant to this RFP or the terms thereof or modify the RFP and draft agreement prior to Bid Due Date. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by DTTDC.
- 1.1.6. The DTTDC shall receive Bids pursuant to the RFP in accordance with the terms set forth in the RFP and other documents provided by the DTTDC pursuant to RFP (collectively the “**Bidding Documents**”), as modified, altered, amended and clarified from time to time by the DTTDC by posting/ uploading the same on its website, and all Bids shall be prepared and submitted in accordance with such terms.
- 1.1.7. The RFP document has been made available on the website <http://www.delhitourism.gov.in>; the document purchase fee (the “**Document Fee**”) of Rs. 10,500 (Rupees Ten Thousand Five Hundred only) inclusive of VAT @ 5% shall be paid to DTTDC through Demand Draft drawn on a Scheduled / Nationalised Bank in favour of “Delhi Tourism & Transportation Development Corporation” payable at New Delhi, in a manner, prescribed in the RFP document.

1.2. BRIEF DESCRIPTION OF BIDDING PROCESS

- 1.2.1. The DTTDC has adopted single stage two-step process (referred to as the “**Bidding Process**”) for

selection of the Bidder for award of the Project. All Bidders shall submit their Technical Proposal and Financial Proposal against this RFP in a single stage, both electronically as well as physically. The first step of the process involves examining of “**Envelope 1**” containing Bid Security and Tender Fee. Secondly, “**Envelope 2**” of only those bidders will be opened whose “**Envelope 1**” is found to be satisfactory. Contents of “**Envelope 2**” will be evaluated on the basis of requirements of RFP. At the end of the second step, the DTTDC shall shortlist pre-qualified Bidders. In the second step of the process, Financial Proposal (“**Envelope 3**”) of only these shortlisted pre-qualified Bidders shall be opened and evaluated for identification of the Successful Bidder.

GOI has issued guidelines (see Appendix-VI of RFP) for qualification of bidders seeking to acquire stakes in any public sector enterprise through the process of disinvestment. These guidelines shall apply mutatis mutandis to this Bidding Process. The DTTDC shall be entitled to disqualify a Bidder in accordance with the aforesaid guidelines at any stage of the Bidding Process. Bidders must satisfy themselves that they are qualified to bid, and should give an undertaking to this effect in the form at Appendix-I.

- 1.2.2. The Bid shall be valid for a period of not less than **120 days** from the date specified in Clause 1.3 for submission of bids (the “**Bid Due Date**”).
- 1.2.3. The Bidding Documents include the draft Agreement for the Project. The aforesaid documents and any addenda issued subsequent to this RFP Document, but before the Bid Due Date, or modified RFP documents will be deemed to form part of the Bidding Documents.
- 1.2.4. A Bidder is required to deposit, along with its Bid, a Bid Security equivalent to Rs. 5 Lakh (Rupees Five Lakh only) refundable not later than 60 days from the Bid Due Date or from the date of execution of Agreement with the Successful Bidder, whichever is later, except in the case of the highest Bidder. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the DTTDC. If bidder choose to provide Bid Security in form of Bank Guarantee, the validity period of the bank guarantee, shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 60 (sixty) days, and which may be extended as may be mutually agreed between the DTTDC and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

- 1.2.5. Generally the Highest Bidder shall be the Successful Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in Clause 3.8 of the RFP, be invited to match the Bid submitted by the highest Bidder in case such highest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders match the BID of the highest Bidder, the DTTDC may, in its discretion, invite fresh BIDs from all Bidders or annul the Bidding Process, as the case may be.
- 1.2.6. Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective BIDs for award of the Concession including implementation of the Project.
- 1.2.7. Bids are invited for the Project on the basis of the highest Annual Concession Fee over the minimum reserve price of Rs. 1,25,00,000/- (Rupees One Crore Twenty Five Lakhs only) (the "**Annual Concession Fee**") to be paid by the Bidder at the time of signing of Concession Agreement. The Agreement Period is pre-determined, as indicated in the draft Agreement. The Annual Concession Fee quoted shall constitute the criteria for evaluation of BIDs. Subject to this RFP the Project will be awarded to the Bidder quoting the highest Annual Concession Fee over the Minimum Reserve Price of Rs.1,25,00,000/- (Rupees One Crore Twenty Five Lakhs only). The Annual Concession Fee will be increased at the rate of 18% (Eighteen percent), after every three years over the previous Annual Concession Fee.
- 1.2.8. The Operator will be entitled to levy and charge an appropriate User Charges from users of the Project, as prescribed in the RFP document.
- 1.2.9. Further, other details of the process and the terms thereof are spelt out in this RFP.
- 1.2.10. Any queries or request for additional information concerning this RFP shall be submitted in writing or by fax and e-mail to the General Manager, DTTDC. The envelopes / communication shall clearly bear the following identification/ title:
"Queries/ Request for Additional Information: RFP for Operation, Management and Transfer of Air Conditioned Food Court in Dilli Haat, Janakpuri".

1.3. SCHEDULE OF BIDDING PROCESS

The DTTDC shall endeavor to adhere to the following schedule:

Event Description	Date
Period of Sale of bid document	From 29 th December 2014 to 19 th February 2015
Last date of receiving pre-bid queries	On or before 4.30 PM of 19 th January 2015
Pre-Bid meeting	19 th January 2015 at 11.30 am
DTTDC's response to queries latest by	4 th February 2015
Bid due date	On or before 3.00 pm of 19 th February 2015
Opening of Technical Proposals	19 th February 2015 at 3.30 pm
Opening of Financial Proposals	To be intimated
Notice of Award (NOA)	Within 21 working days of Bid Due Date
Validity of Bids	120 days of Bid Due Date
Submission of Performance Security	Within 3 weeks from the date of receipt of NoA
Signing of Agreement	Within 30 working days of date of NOA

2. INSTRUCTIONS TO BIDDERS

A. GENERAL

2.1. ELIGIBILITY OF BIDDERS

2.1.1. Bids are invited from single or group of entities; for determining the eligibility of Bidders for their pre-qualification hereunder, the following shall apply:

- (a) The Bidder may be a single entity or a group of entities (the “**Consortium**”), joining together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium.
- (b) A Bidder may be a natural person, private entity, partnership firm, company or society or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.1.2 below.
- (c) Where the Bidder is a Consortium, it shall have to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act 1956 (the “**SPV**”), to execute the Agreement and implement the Project. However, where bidder is a single entity, he may choose to form an SPV.

2.1.2. Where the Bidder is a single entity or a Consortium, it shall be required to form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act 1956 (the “**SPV**”), to execute the Agreement and implement the Project. In case the Bidder is a Consortium, it shall, in addition to forming an SPV, comply with the following additional requirements:

- (a) Number of members in a consortium shall not exceed 2 (two);
- (b) subject to the provisions of clause (a) above, the Proposal should contain the information required for each member of the Consortium;
- (c) members of the Consortium shall nominate one member as the lead member (the “**Lead Member**”), who shall have an equity share holding of at least 51% (Fifty One Per Cent) of the Paid Up and Subscribed Equity of the SPV till a period of 2 (two) years from the Commercial Operations Date and 26% (Twenty Six Percent) during the remaining Agreement Period. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-V, signed by all the other members of the Consortium;
- (d) All other members of the Consortium shall legally and beneficially hold not less than 26%

- (Twenty Six Percent) of the paid up & subscribed equity share capital of the Operator till a period of 2 (two) years from the Commercial Operations Date.
- (e) the Proposal should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial, technical and O&M obligations;
 - (f) an individual Bidder cannot at the same time be member of a Consortium applying for qualification. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium applying for qualification;
 - (g) members of the Consortium shall enter into a Joint Bidding Agreement, substantially in the form specified at Appendix-VII (the “**Jt. Bidding Agreement**”), for the purpose of submitting a Bid. The Jt. Bidding Agreement, to be submitted along with the Proposal, shall, inter alia:
 - i. convey the intent to form an SPV with shareholding / ownership equity commitment(s) in accordance with this RFP, which would enter into the Agreement and subsequently perform all the obligations of the Operator in terms of the Agreement, in case the concession to undertake the Project is awarded to the Consortium;
 - ii. clearly outline the proposed roles and responsibilities, if any, of each member;
 - iii. commit the minimum equity stake to be held by each member;
 - iv. commit that each of the members, whose experience will be evaluated for the purposes of this RFP, shall subscribe for 26% (Twenty Six Percent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 2 (two) years from the Commercial Operations Date, hold equity share capital not less than 26% (Twenty Six Percent) of the subscribed and paid up equity share capital of the SPV;
 - v. members of the Consortium undertake that they shall collectively hold at least 77% (Seventy Seven Percent) of the subscribed and paid up equity of the SPV at all times till the end of second anniversary of the Commercial Operation Date, in case a single entity choose to form SPV, then such single entity shall hold at least 51% (Fifty One Percent) of the subscribed and paid up equity of the SPV at all times till the end of second anniversary of the Commercial Operations Date; and
 - vi. include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Operator in relation to the

Project in accordance with the Agreement and the statement to this effect shall also be included in the Jt. Bidding Agreement and the Agreement; and

(h) Except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the DTTDC.

2.1.3. **Technical Qualification:** To be eligible for pre-qualification and short-listing, the Bidders shall have to satisfy the following conditions of eligibility:

(a) Technical Capacity: For demonstrating technical capacity and experience (the “**Technical Capacity**”), the Bidder shall have, for past three (3) years preceding the Bid Due Date:

Minimum average Annual Turnover of Rs. 8 Crore (Rupees Eight Crore only) from Eligible Projects, i.e., in business of catering, hotels, restaurants, holiday centers and other short stay accommodations, cafés, takeaways, mobile food stands, pubs, bars, canteens, clubs lodging, event planning and management, theme parks. This sector also covers a wide range of organizations offering food services, management of meetings and events, entertainment and recreation;

(b) Financial Capacity: Financial Capacity: The Bidder shall have the following (the “**Financial Capacity**”)

Minimum Net Worth of Rs. 4 Crore (Rupees Four Crore) at the close of Preceding financial year

2.1.4. In case of consortium, Aggregate Turnover (Technical Capacity) & Aggregate Networth (Financial Capacity) will be considered for all the consortium members. In computing the Technical Capacity and Financial Capacity of the Bidder the Technical Capacity and Financial Capacity of their respective Associates would also be eligible hereunder.

For purposes of this RFP, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder/ Consortium Member (the “**Associate**”). As used in this definition, the expression “control” means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (Fifty Percent) of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such person by operation of law.

- 2.1.5. The Bidders shall enclose with its letter comprising the bid, as per the format at Appendix-I, complete with its Annexes, the following:
- a. Certificate(s) from its Statutory Auditors stating the Eligible Projects and the annual turnover from the Eligible Projects during the past 3 (three) financial years (for FY 2011-12, FY 2012-13, FY 2013-14) in respect of the projects specified in paragraph 2.1.3 (a) (0 above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a consortium), it should further support its claim for the share in work done for that particular job/ contract by producing a Certificate from its Statutory Auditor or the Client. For the purpose of this RFP, Turnover shall mean the income received from goods and services in respect of activities specified in Clause 2.1.3 (a) during the accounting period. Other income, including but not limited to interest income, income from sale of assets, shall not be included in the definition of Annual Turnover;

2.2. GENERAL TERMS OF BIDDING

- 2.2.1. A Bidder is eligible to submit only one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.
- 2.2.2. Notwithstanding anything to the contrary contained in the RFP, the detailed terms specified in the draft Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Agreement.
- 2.2.3. The Financial Proposal should be furnished in the format at Appendix – II, clearly indicating the bid amount in both figures and words, and signed by the Bidder's authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be taken into account.
- 2.2.4. The Financial Proposal shall be the Annual Concession Fee (exclusive of service tax or any other tax as applicable thereon, which shall be paid extra by the Operator) to be quoted by the Bidder. Annual Concession Fee shall be payable by the Operator to the DTTDC, as per the terms and conditions of the RFP and the provisions of the Agreement.

- The Operator shall pay service tax and / or any other tax as applicable over and above to the DTTDC. All duties and taxes in consequence of its obligations under this Agreement, including customs and excise duties, advertisement tax, VAT, any cess, levy, duty, tax or charge etc., shall be directly borne by the Operator.
- 2.2.5. The Bidder shall deposit a Bid Security of Rs. 5 Lakh (Rupees Five Lakh only) in accordance with the provisions of this RFP. The Bidder has the option to provide the Bid Security either as a Demand Draft or in the form of a Bank Guarantee, acceptable to the DTTDC, as per format at Appendix – III.
- 2.2.6. The validity period of the Bank Guarantee shall not be less than 180 days from the Bid Due Date, which shall be extended by the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security. The Bid Security shall be refundable not later than 60 days from the Bid Due Date or from the Date of signing of agreement with the Successful Bidder, whichever is later, except in the case of the highest Bidder.
- 2.2.7. The Bidder should submit a Power of Attorney as per the format at Appendix – IV, authorizing the signatory of the Bid to commit the Bidder.
- 2.2.8. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format at Appendix – V.
- 2.2.9. Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 2.2.10. The Proposal and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 2.2.11. The Bidding Documents including the RFP and all attached documents are and shall remain the property of the DTTDC and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are informed to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The DTTDC will not return any Bid or any information provided along therewith.

2.2.12. A Bidder shall not have a conflict of interest (the “**Conflict of Interest**”) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the DTTDC shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the DTTDC for, inter alia, the time, cost and effort of the DTTDC, including consideration of such Bidder’s proposal, without prejudice to any other right or remedy that may be available to the DTTDC hereunder or otherwise. Without limiting the generality of the above, a Bidder shall be considered to have a Conflict of Interest that affects the Bidding Process, if:

- (i) such Bidder (or any constituent thereof) and any other Bidder (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this qualification shall not apply in cases where the direct or indirect shareholding in a Bidder or a constituent thereof in the other Bidder(s) (or any of its constituents) is less than 5% of its paid up and subscribed capital; or
- (ii) a constituent of such Bidder is also a constituent of another Bidder; or
- (iii) such Bidder receives or has received any direct or indirect subsidy from any other Bidder, or has provided any such subsidy to any other Bidder; or
- (iv) such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
- (v) such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each other’s information about, or to influence the Bid of either or each of the other Bidder; or
- (vi) such Bidder has participated as a consultant to the DTTDC in the preparation of any documents, design or technical specifications of the Project.

2.2.13. A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the DTTDC in relation to the Project is engaged by the Bidder in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the NoA or (ii) execution of the Agreement. In the event any such adviser is engaged by the Successful Bidder or Operator, as the case may be, after issue of the NoA or execution of the Agreement, then notwithstanding anything to the contrary contained herein or in the NoA or the Agreement and without prejudice to any other right or remedy of the DTTDC, including the forfeiture and appropriation of the Bid Security or

Performance Security, as the case may be, which the DTTDC may have there under or otherwise, the NoA or the Agreement, as the case may be, shall be liable to be terminated without the DTTDC being liable in any manner whatsoever to the Successful Bidder or Operator for the same.

2.2.14. The RFP is not transferable.

2.2.15. Any award of Concession pursuant to the RFP shall be subject to the terms of Bidding Documents.

2.2.16. A bidder shall not be eligible for bidding hereunder if the Bidder, its Associate was, during a period of 2 (two) months preceding the Bid Due Date, either by itself or as member of a consortium:

- (i) pre-qualified and short-listed by the DTTDC for the Bid Stage comprising RFP in related to 8 (eight) or more projects of the DTTDC; or
- (ii) declared by the DTTDC as the Successful bidder for undertaking 4 (four) or more projects of the DTTDC

2.2.17. Provided that in the event the bidder, its Member or Associate, as the case may be, shall have, within one week of receiving a notice of pre-qualification and short-listing for the Bid Stage of any such project, withdrawn from bid process thereof and notified the DTTDC of the same, the project so notified shall be excluded from the preview of this clause 2.2.16.

2.2.18. Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Proposal, would not be eligible to submit a Proposal, either individually or as member of a Consortium.

2.2.19. A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium Member or Associate.

2.2.20. While Qualification is open to persons from any country, the following provisions shall apply:

- (a) Where, on the date of the Bid, not less than 15% (Fifteen Percent) of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by persons resident outside India or where a Bidder or its Member is controlled by persons resident outside India; or
- (b) if at any subsequent stage after the date of the Bid, there is an acquisition of not less than 15% (Fifteen Percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Bidder or its Member;

then the Qualification of such Bidder or in the event described in sub clause (b) above, the continued Qualification of the Bidder shall be subject to approval of the DTTDC from national security and public interest perspective. The decision of the DTTDC in this behalf shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the DTTDC shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 1997, or any substitute thereof, as in force on the date of such acquisition.

The Bidder shall promptly inform the DTTDC of any change in the shareholding, as above, and failure to do so shall render the Bidder liable for disqualification from the Bidding Process.

2.3. CHANGE IN COMPOSITION OF THE CONSORTIUM

2.3.1. Change in the composition of a Consortium will not be permitted by the DTTDC during the Bidding process. Also, no change in composition of Consortium will be allowed till the end of second year from the date of Commercial Operations Date.

2.4. CHANGE IN OWNERSHIP

2.4.1. By submitting the Bid, the Bidder acknowledges and undertakes that the Lead Member shall continue to hold minimum 51% of the equity and each of the other Member shall continue to hold at least 26% of the equity of the Concessionaire until the second anniversary from the Commercial Operations Date is achieved under and in accordance with the provisions of the Agreement. The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum, and shall be in addition to such other obligations as may be contained in the Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Agreement, be deemed to be a breach of the Agreement and dealt with as such thereunder. For the avoidance of doubt, the provisions of this Clause 2.4.1 shall apply only when the Bidder is a Consortium.

2.4.2. By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that there shall be no change in consortium members until the second anniversary from the Commercial Operations Date. In the event such change occurs, the Agreement shall be liable to be terminated without the DTTDC being liable in any manner whatsoever to the Operator. In such an event, notwithstanding anything to the contrary contained in the Agreement, the DTTDC shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the DTTDC for, inter alia, time, cost and effort of the DTTDC, without prejudice to any other right or remedy that may be available to the DTTDC hereunder or otherwise.

2.5. COST OF BIDDING

2.5.1. The Bidders shall be responsible for all of the costs associated with the preparation of their Bids and their participation in the Bidding Process. The DTTDC shall not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process.

2.6. SITE VISIT AND VERIFICATION OF INFORMATION

2.6.1. Bidders are advised to submit their respective Bids after visiting the Project site and ascertaining for themselves the site conditions, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, applicable laws and regulations, and any other matter considered relevant by them.

2.6.2. It shall be deemed that by submitting a Bid, the Bidder has:

- (a) made a complete and careful examination of the Bidding Documents;
- (b) received all relevant information requested from the DTTDC;
- (c) acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the DTTDC relating to any of the matters referred to in Clause 2.6.1 above;
- (d) satisfied itself about all matters, things and information including matters referred to in Clause 2.6.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;
- (e) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.6.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the DTTDC, or a ground for termination of the Agreement; and
- (f) agreed to be bound by the undertakings provided by it under and in terms hereof.

2.6.3. The DTTDC shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, the Bidding Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the DTTDC.

2.7. RIGHT TO ACCEPT AND TO REJECT ANY OR ALL BIDS

2.7.1. Notwithstanding anything contained in the RFP, the DTTDC reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids at any time without any liability or any obligation whatsoever for such acceptance, rejection or annulment, and without assigning any reasons thereof.

- 2.7.2. The DTTDC reserves the right to reject any Bid and appropriate the Bid Security if:
- (a) at any time, a material misrepresentation is made or uncovered, or
 - (b) the Bidder does not provide, within the time specified by the DTTDC, the supplemental information sought by the DTTDC for evaluation of the Bid.

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

- (i) invite the remaining Bidders to submit Bids in accordance with this RFP; or
 - (ii) take any such measure as may be deemed fit in the sole discretion of the DTTDC, including annulment of the Bidding Process.
- 2.7.3. In case it is found during the evaluation or at any time before signing of the Agreement or after its execution and during the period of subsistence thereof, including the Concession thereby granted by the DTTDC, that one or more of the pre-qualification conditions have not been met by the Bidder or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Operator either by issue of the NoA or entering into of the Agreement, and if the Bidder has already been issued the NoA or has entered into the Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the DTTDC to the Bidder, without the DTTDC being liable in any manner whatsoever to the Bidder or Operator, as the case may be. In such an event, the DTTDC shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as compensation and damages payable to the DTTDC for, inter alia, time, cost and effort of the DTTDC, without prejudice to any other right or remedy that may be available to the DTTDC.

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

B. DOCUMENTS**2.8. CONTENTS OF THE RFP**

2.8.1. This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.10.

Invitation for Bids	
Section 1	Introduction
Section 2	Instructions to Bidders
Section 3	Evaluation of Bids
Section 4	Fraud and Corrupt Practices
Section 5	Pre-Bid Conference
Section 6	Miscellaneous

Appendices

- I. Letter comprising the Bid
- II. Financial Proposal
- III. Bank Guarantee for Bid Security
- IV. Power of Attorney for signing of Bid
- V. Power of Attorney for Lead Member of Consortium
- VI. Guidelines of the Department of Disinvestment
- VII. Joint Bidding Agreement for Consortium

2.8.2. The draft Agreement to be provided by the DTTDC as part of the Bid Documents shall be deemed to be part of this RFP.

2.9. CLARIFICATIONS

2.9.1. Bidders requiring any clarification on the RFP may notify the DTTDC in writing or by fax and e-mail in accordance with Clause 1.2.10. They should send in their queries before the date mentioned in the Schedule of Bidding Process specified in Clause 1.3. The DTTDC shall endeavour to respond to the queries within the period specified therein, but no later than 7 (seven) days prior to the Bid Due Date. The responses will be uploaded in the website <http://www.delhitourism.gov.in> without identifying the source of queries.

2.9.2. The DTTDC shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the DTTDC reserves the right not to respond to any question or provide any

clarification, in its sole discretion, and nothing in this clause shall be taken or read as compelling or requiring the DTTDC to respond to any question or to provide any clarification.

2.9.3. The DTTDC may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by the DTTDC shall be deemed to be part of the Bidding Documents. Verbal clarifications and information given by DTTDC or its employees or representatives shall not in any way or manner be binding on the DTTDC.

2.10. AMENDMENT MODIFICATION OF RFP

2.10.1. At any time prior to the deadline for submission of Bids, the DTTDC may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP by the issuance of Addenda.

2.10.2. Any Addendum/Modification thus issued will be uploaded in the website www.delhitourism.gov.in OR <http://govtprocurement.delhi.gov.in>

2.10.3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the DTTDC may, at its own discretion, extend the Bid Due Date.

C. PREPARATION AND SUBMISSION OF BIDS

2.11. LANGUAGE

The Bid and all related correspondence and documents in relation to the Bidding Process shall be in English language. Supporting documents and printed literature furnished by the Bidder with the Proposal may be in any other language provided that they are accompanied by translations of all the pertinent passages in the English language, duly authenticated and certified by the Bidder. Supporting materials, which are not translated into English, may not be considered. For the purpose of interpretation and evaluation of the Bid, the English language translation shall prevail

2.12. FORMAT AND SIGNING OF BID

2.12.1. The Bidder shall provide all the information sought under this RFP. The DTTDC will evaluate only those Bids that are received in the required formats and complete in all respects.

2.12.2. The Bid shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published Documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialed by the person(s) signing the Bid. The Bid shall contain serially page numbered and shall be hard bound.

2.13. SEALING AND MARKING OF BIDS

2.13.1. The documents of Technical Proposal shall be placed in a separate envelope and marked as prescribed hereunder -

“Envelope 1: Tender Fee and Bid Security”

- a) Document fee Rs. 10,500/- in the form of Demand Draft issued by a Nationalized/Scheduled bank in favour of DTTDC, payable at New Delhi . Demand Drafts issued by cooperative banks will not be accepted.
- b) Bid Security in the prescribed format (Appendix – III) OR Demand Draft issued by a Nationalized/Scheduled bank in favour of DTTDC payable at New Delhi. Bank Guarantee/Demand Draft issued by Cooperative banks will not be accepted.

“Envelope 2: Technical Proposal”

- a) Power of Attorney for signing of Bid in the prescribed format (Appendix – IV);
 - b) If applicable, the Power of Attorney for Lead Member of Consortium in the prescribed format (Appendix – V);
 - c) Certified copy of the Jt. Bidding Agreement, in case of a Consortium, substantially in the format at Appendix-VII;
 - d) Certified copy of Memorandum and Articles of Association, if the Bidder is a body corporate, and if a partnership then a copy of its partnership deed;
 - e) Certified copies of Bidder’s duly audited balance sheet and profit and loss account for the preceding Five years; and
 - f) A copy of the Agreement with each page initialed by the person signing the Bid in pursuance of the Power of Attorney referred to in Clause (c) hereinabove.
 - g) Letter comprising the Bid in the prescribed format (Appendix-I) along with Annexes and supporting documents
 - h) PAN Card & Income Tax Return for last 5 (Five) Years
 - i) Service Tax Registration Certificate
 - j) Tax/VAT Registration Certificate
 - k) Other applicable certificates with respect to operation of Eligible Projects such as food licence, shops and establishment certificate etc.
 - l) Proof of operation of eligible projects being claimed by the bidder.
- 2.13.2. The Bidder shall submit the Financial Proposal (the **“BID”**) in the format specified at Appendix-II, and seal it in an envelope and mark the envelope as **“Envelope 3: Financial Proposal”**.
- 2.13.3. All the envelopes specified above (Clause 2.13.1 and 2.13.2) shall be placed in an outer envelope (as **“Envelope - 4”**), which shall be sealed. Each of the three envelopes shall clearly bear the following identification:
- “Bid for Operation, Management and Transfer of Air Conditioned Food Court on First Floor and Usable Roof Top Area in Dilli Haat, Janakpuri”**
- and shall clearly indicate the name and address of the Bidder. In addition, the Bid Due Date should be indicated on the right hand top corner of each of the envelopes.

2.13.4. Each of the envelopes shall be addressed to:

General Manager, Delhi Tourism & Transportation Development Corporation 18-A, DDA, SCO, Shopping Complex, Defence Colony, New Delhi - 110024	Email – gm@delhitourism.com TEL - +91 11 24624354 / 24698431 FAX - +91 11 24697352
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If the envelopes are not sealed and marked as instructed above, the DTTDC assumes no responsibility for the misplacement or premature opening of the contents of the Bid submitted.

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

2.14. BID DUE DATE

- 2.14.1. Bids should be submitted before 1500 hours IST on the Bid Due Date at the address provided herein in the manner and form as detailed in this RFP. A receipt thereof should be obtained from the person in charge of the Receipt-Dispatch section of DTTDC.
- 2.14.2. The DTTDC may, in its sole discretion, extend the Bid Due Date by issuing an Addendum only in its website <http://www.delhitourism.gov.in>

2.15. LATE BIDS

- 2.15.1. Bids received by the DTTDC after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

2.16. CONTENTS OF THE BID

- 2.16.1. The BID shall be furnished in the format at Appendix – II and shall consist of Annual Concession Fee to be quoted by the Bidder. The Bidder shall specify the Annual Concession Fee (in Indian Rupees) offered by him, to undertake the Project in accordance with this RFP and the provisions of the Agreement.
- 2.16.2. The Project will be awarded to the Bidder quoting the highest Annual Concession Fee over the minimum reserve price of Rs.1,25,00,000 Crore (Rupees One Crore Twenty Five Lakhs only) as specified in Clause 1.2.7.
- 2.16.3. The opening of Bids and acceptance thereof shall be substantially in accordance with this RFP.
- 2.16.4. The proposed Agreement shall be deemed to be part of the Bid.

2.17. MODIFICATIONS/ SUBSTITUTION/ WITHDRAWAL OF BIDS

- 2.17.1. The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the DTTDC prior to Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.
- 2.17.2. The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered, with the envelopes being additionally marked “**MODIFICATION**”, “**SUBSTITUTION**” or “**WITHDRAWAL**”, as appropriate.

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

2.18. REJECTION OF BIDS

2.18.1. The DTTDC reserves the right to accept or reject all or any of the Bids without assigning any reason whatsoever. It is not obligatory on the part of the DTTDC to accept any Bid or to give any reasons for their decision.

2.18.2. The DTTDC reserves the right not to proceed with the Bidding Process at any time, without notice or liability, and to reject any Bid without assigning any reasons.

2.19. VALIDITY OF BIDS

2.19.1. The Bids shall be valid for a period of not less than 120 (one hundred and twenty) days from the Bid Due Date. The validity of Bids may be extended by mutual consent of the respective Bidders and the DTTDC.

2.20. CONFIDENTIALITY

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

2.21. CORRESPONDENCE WITH THE BIDDER

2.21.1. The DTTDC shall not entertain any correspondence with from any Bidder in relation to acceptance or rejection of any Bid.

D. BID SECURITY

2.22. BID SECURITY

2.22.1. The Bidder shall furnish as part of its Bid, a Bid Security in the form of Bank Guarantee issued by any Scheduled / Nationalized Bank in India in favour of the DTTDC in the format at

- Appendix – III (the “**Bank Guarantee**”) and having a validity period of not less than 180 days from the Bid Due Date, as may be extended by the Bidder from time to time. Bid Security issued by Cooperative Banks will not be accepted in any case.
- 2.22.2. Bid Security can also be in the form of a Demand Draft issued by a Scheduled / Nationalized Bank in India, drawn in favour of the DTTDC, payable at New Delhi (the “**Demand Draft**”). The DTTDC shall not be liable to pay any interest on the Bid Security deposit so made and the same shall be interest free.
- 2.22.3. Any Bid not accompanied by the Bid Security shall be rejected by the DTTDC as non-responsive.
- 2.22.4. As provided in Clauses 1.2.4 and 1.2.5 above, the Bid Security of unsuccessful Bidders will be returned by the DTTDC, without any interest, as promptly as possible on acceptance of the Bid of the Successful Bidder or when the Bidding process is cancelled by the DTTDC. Where Bid Security has been paid through demand draft, the refund thereof shall be in the form of an account payee Demand Draft in favour of the unsuccessful Bidder(s). Bidders may by specific instructions in writing to the DTTDC give the name and address of the person in whose favour the said Demand Draft shall be drawn by the DTTDC for refund, failing which it shall be drawn in the name of the Bidder and shall be mailed to the address given on the Bid.
- 2.22.5. The Successful Bidder’s Bid Security will be returned, without any interest, on signing the Agreement and furnishing the Performance Security in accordance with the provisions thereof.
- 2.22.6. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the DTTDC shall be entitled to forfeit and appropriate the Bid Security as compensation / damages to the DTTDC in any of the events specified herein below.
- 2.22.7. The Bid Security shall be forfeited and appropriated by the DTTDC as compensation and damages payable to the DTTDC for, inter alia, time, cost and effort of the DTTDC without prejudice to any other right or remedy that may be available to the DTTDC hereunder or otherwise, under the following conditions:
- a) If a Bidder submits a non-responsive Bid;
 - b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice,

- undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
- c) If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by the Bidder from time to time;
 - d) In the case of Successful Bidder, if it fails within the specified time limit -
 - i) to sign the Agreement and/or
 - ii) to furnish the Performance Security within the a period of 3 weeks from the date of receipt of Notice of Award

3. EVALUATION OF BIDS

3.1. OPENING AND EVALUATION OF BIDS

3.1.1. The DTTDC shall open **“Envelope 1”** first which shall contain Bid Security and Bid Document Fee as described in Clause 2.13.1. Only after ensuring the contents of this envelope are in place, shall DTTDC go to next step of bid opening for a bidder. Bids submitted with **“Envelope 1”** not containing Bid Security, Tender Fee or both shall be summarily rejected.

3.1.2. The DTTDC shall open the Technical Proposals at 3.30 pm on the Bid Due Date, at the office of DTTDC and in the presence of the Bidders who choose to attend.

3.1.3. The DTTDC shall open Financial Proposals (**“Envelope 3”**) of only those Bidders who meet the eligibility criteria and found to be responsive as specified in this RFP at such date and time as intimated by the DTTDC.

3.1.4. The DTTDC will subsequently examine and evaluate the Bids in accordance with the provisions set out in this RFP.

3.1.5. If any information furnished by the Bidder is found to be incomplete, or contained in formats other than those specified herein, the DTTDC may, in its sole discretion, exclude the relevant project from computation of the Eligible Score of the Bidder.

3.1.6. In the event that an Bidder claims credit for an Eligible Project, and such claim is determined by the DTTDC as incorrect or erroneous, the DTTDC shall reject such claim and exclude the same from computation of the Eligible Score, and may also, while computing the aggregate Experience Score of the Bidder, make a further deduction equivalent to the claim rejected hereunder. Where any information is found to be patently false or amounting to a material misrepresentation, the DTTDC reserves the right to reject the Bid in accordance with the provisions of Clauses 2.7.2 and 2.7.3.

3.1.7. To facilitate evaluation of Bids, the DTTDC may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.

3.2. EVALUATION OF TECHNICAL PROPOSAL

3.2.1. The Bidder's competence and capability shall be evaluated on the basis of by the following

parameters:

- a) Technical Capacity; and
- b) Financial Capacity

3.3. TECHNICAL CAPACITY FOR PURPOSES OF EVALUATION

3.3.1. Subject to the provisions of Clause 2.2, the following categories of experience would qualify as Technical Capacity and eligible experience (the "**Eligible Experience**") in relation to eligible projects as stipulated in Clauses 3.3.3, 3.3.4 and 3.3.5 (the "**Eligible Projects**"):

Eligible Projects shall mean business of catering, hotels, restaurants, holiday centers and other short stay accommodations, cafés, takeaways, mobile food stands, pubs, bars, canteens, clubs lodging, event planning and management, theme parks. This sector also covers a wide range of Organizations offering food services, meeting and events, entertainment and recreation, and visitor information.

3.3.2. DTTDC reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the DTTDC in respect of such Bid.

3.3.3. Double counting for a particular project shall not be permitted in any form.

3.3.4. The entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (twenty six percent) equity during the entire year for which Eligible Experience is being claimed

3.3.5. The entity claiming experience shall, during the last 3 (three) financial years preceding the Bid Due Date, have generated turnover from the eligible project.

3.3.6. Turnover from each of the eligible projects will be aggregated to evaluate the Technical Criteria.

3.4. TESTS OF RESPONSIVENESS

- 3.4.1. Prior to evaluation of Bids, the DTTDC shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:
- (a) Technical Proposal is received as specified in Clause 2.13.1
 - (b) Financial Proposal is received as per the format at Appendix – II;
 - (c) it is received by the Bid Due Date including any extension thereof pursuant to Clause 2.14;
 - (d) it is signed, sealed, hard bound and marked as stipulated in Clauses 2.12 and 2.13;
 - (e) it is accompanied by the Bid Security as specified in Clause 2.2.5;
 - (f) it is accompanied by the Power(s) of Attorney as specified in Clauses 2.2.7 and 2.2.8, as the case may be;
 - (g) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
 - (h) it does not contain any condition or qualification; and
 - (i) it is not non-responsive in terms hereof.

3.5. DETAILS OF EXPERIENCE

- 3.5.1. The Bidder should furnish the details of Eligible Experience for the last 3 (three) financial years immediately preceding the Bid Due Date.
- 3.5.2. The Bidders must provide the necessary information relating to Technical Capacity as per format at Annex-II of Appendix-I.
- 3.5.3. The Bidder should furnish the required Project-specific information and evidence in support of its claim of Technical Capacity, as per format at Annex-IV of Appendix-I.

3.6. FINANCIAL INFORMATION FOR PURPOSES OF EVALUATION

- 3.6.1. The Bid must be accompanied by the Audited Annual Reports of the Bidder (of each Member in case of a Consortium) for the last 5 (five) financial years, i.e. 2013-14, 2012-13, 2011-12, 2010-11, and 2009-10.
- 3.6.2. In case the annual accounts for the latest financial year are not audited and therefore Bidder cannot make it available, the Bidder shall give an undertaking to this effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide Audited Annual Reports for 5 (five) years preceding the year for which Audited Annual Report is not being provided.

- 3.6.3. The Bidder must establish the average minimum Turnover specified in Clause 2.1.3 (b), and provide details as per format at Annex-III of Appendix-I
- 3.6.4. Experience for any activity relating to an Eligible Project shall not be claimed by two or more Members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.
- 3.6.5. the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (Twenty Six Percent) equity during the entire year for which Eligible Experience is being claimed

3.7. SHORTLISTING OF BIDDERS

- 3.7.1. In the first step of evaluation, Technical Proposals of Bidders adjudged responsive in terms of Clause 3.4 shall be considered for Technical evaluation as per Clause 2.1 and 3.3 of this RFP. The Bidders qualifying as per the conditions shall be shortlisted as pre-qualified Bidders and shall be considered for the next step of evaluation.
- 3.7.2. The credentials of eligible Bidders shall be measured in terms of their Turnover. The sum total of the Turnover for all Eligible Projects shall be the '**Aggregate Turnover**' of a particular Bidder. In case of a Consortium, the Aggregate Turnover of each of its Members shall be summed up for arriving at the combined Aggregate Turnover of the Consortium.
- 3.7.3. In second step of evaluation, Financial Proposals of only those Bidders who have passed the first step shall be opened in presence of the nominees of the Bidders, who choose to attend the same.

3.8. SELECTION OF BIDDER

- 3.8.1. The Bidder quoting the highest Annual Concession Fee offered to the DTTDC shall be declared as the Successful Bidder (the “**Successful Bidder**”)
- 3.8.2. In the event that two or more Bidders quote the same amount of Annual Concession Fee (the “**Tie Bidders**”), the DTTDC shall identify the Successful Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.
- 3.8.3. In the event that the highest Bidder withdraws or is not selected for any reason in the first instance (the “**first round of bidding**”), the DTTDC may invite all the remaining Bidders to revalidate or extend their respective Bid Security, as necessary, and match the BID of the aforesaid highest Bidder (the “**second round of bidding**”). If in the second round of bidding, only one Bidder matches the highest Bidder, it shall be the Successful Bidder. If two or more Bidders match the said highest Bidder in the second round of bidding, then the Bidder whose BID was higher as compared to other Bidder(s) in the first round of bidding shall be the Successful Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said highest Bidder in the second round of bidding, the said third highest bidder shall be the Successful Bidder.
- 3.8.4. In the event that no Bidder offers to match the highest Bidder in the second round of bidding as specified in Clause 3.8.3, the DTTDC may, in its discretion, invite fresh BIDs (the “**third round of bidding**”) from all Bidders except highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid Security, as necessary, and offer fresh BIDs, they shall be eligible for submission of fresh BIDs provided, however, that in such third round of bidding only such BIDs shall be eligible for consideration which are higher than the BID of the second highest Bidder in the first round of bidding.
- 3.8.5. After selection, a Notice of Award (the “**NoA**”) shall be issued, in duplicate, by the DTTDC to the Successful Bidder and the Successful Bidder shall, within 14 (fourteen) days of the receipt of the NoA, sign and return the duplicate copy of the NoA in acknowledgement thereof. In the event the duplicate copy of the NoA duly signed by the Successful Bidder is not received by the stipulated date, the DTTDC may, unless it consents to extension of time for submission thereof, appropriate the Bid Security of such Bidder as mutually agreed genuine pre-

estimated loss and damage suffered by the DTTDC on account of failure of the Successful Bidder to acknowledge the NOA, and the next eligible Bidder may be considered.

3.8.6. After acknowledgement of the NoA as aforesaid by the Successful Bidder, it shall execute the Agreement within the period prescribed in Clause 1.3. The Successful Bidder shall not be entitled to seek any deviation in the Agreement. Prior to signing of Agreement, the Successful Bidder / Operator must satisfy the following conditions:

- (i) Successful Bidder / Operator has submitted the Performance Security to DTTDC;
- (ii) Formation of SPV as per the provisions of RFP and Agreement; and
- (iii) Successful Bidder / Operator have submitted the Annual Concession Fee as per Clause 4.1.2 of Agreement to DTTDC.

DTTDC shall not execute the Agreement until the above mentioned conditions are satisfied.

3.9. CONTACTS DURING BID EVALUATION

3.9.1. Bids shall be deemed to be under consideration immediately after they are opened and until such time the DTTDC makes official intimation of award/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain from contacting by any means, the DTTDC and/ or their employees/ representatives on matters related to the Bids under consideration.

4. FRAUD AND CORRUPT PRACTICES

- 4.1.1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the NoA and during the subsistence of the Agreement. Notwithstanding anything to the contrary contained herein, or in the NoA or the Agreement, the DTTDC shall reject a Bid, withdraw the NoA, or terminate the Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Operator, as the case may be, if it determines that the Bidder or Operator, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the DTTDC shall forfeit and appropriate the Bid Security or Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the DTTDC towards, inter alia, time, cost and effort of the DTTDC, without prejudice to any other right or remedy that may be available to the DTTDC hereunder or otherwise.
- 4.1.2. Without prejudice to the rights of the DTTDC under Clause 4.1.1 hereinabove and the rights and remedies which the DTTDC may have under the NoA or the Agreement, if a Bidder or Operator, as the case may be, is found by the DTTDC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, or after the issue of the NOA or the execution of the Agreement, such Bidder or Operator shall not be eligible to participate in any tender or RFP issued by the DTTDC during a period of 2 (two) years from the date such Bidder or Operator, as the case may be, is found by the DTTDC to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practices, as the case may be.
- 4.1.3. For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
- (a) “**Corrupt Practice**” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or

engaging in any manner whatsoever, directly or indirectly, any official of the DTTDC who is or has been associated in any manner, directly or indirectly with the Bidding Process or the NoA or has dealt with matters concerning the Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the DTTDC, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the NoA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the NOA or the Agreement, who at any time has been or is a legal, financial or technical adviser of the DTTDC in relation to any matter concerning the Project;

- (b) **“Fraudulent Practice”** means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process ;
- (c) **“Coercive Practice”** means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- (d) **“Undesirable Practice”** means (i) establishing contact with any person connected with or employed or engaged by the DTTDC with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and
- (e) **“Restrictive Practice”** means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

5. PRE-BID CONFERENCE

- 5.1.1. Pre-Bid conference of the Bidders shall be convened on 19th January 2015 at 11.30 am in DTTDC Conference Room, Delhi Tourism & Transportation Development Corporation, 18-A, DDA, SCO, Shopping Complex, Defence Colony, New Delhi - 110024. A maximum of two representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
- 5.1.2. During the course of Pre-Bid conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the DTTDC. The DTTDC shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

6. MISCELLANEOUS

- 6.1 The Bidding Process shall be governed by, and construed in accordance with, the applicable laws or other laws of India for the time being in the force and the Courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/ or in connection with the Bidding Process.
- 6.2 The DTTDC, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to;
- (a) suspend and/or cancel the Bidding Process and/or amend and/or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;
 - (b) consult with any Bidder in order to receive clarification or further information;
 - (c) retain any information and/or evidence submitted to the DTTDC by, on behalf of, and/or in relation to any Bidder; and/or
 - (d) independently verify, disqualify, reject and/or accept any and all submissions or other information and/or evidence submitted by or on behalf of any Bidder.
- 6.3 It shall be deemed that by submitting the Bid, the Bidder agrees and releases the DTTDC, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/or performance of any obligations hereunder, pursuant hereto and/or in connection herewith and waives any and all rights and/or claims it may have in this respect, whether actual or contingent, whether present or future.

APPENDIX I
LETTER COMPRISING THE BID

(Refer Clause 2.13.1)

Dated:

To,

General Manager,

Delhi Tourism & Transportation Development Corporation Ltd.,

18-A, DDA, SCO, Shopping Complex,

Defence Colony, New Delhi - 110024

Sub: Proposal for Project – Selection of Operator for Air Conditioned Food Court on Manage and Transfer basis in Dilli Haat, Janakpuri

Dear Sir,

With reference to the RFP document dated¹, I/we, having examined the RFP document and understood its contents, hereby submit my/our Proposal for the aforesaid project. The Proposal is unconditional and unqualified.

2. I/ We acknowledge that the DTTDC will be relying on the information provided in the Proposal and the documents accompanying such Proposal of the Bidders, and we certify that all information provided in the Proposal and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of qualifying as a Bidder for the operation, maintenance, marketing and management of the aforesaid Project.
4. I/ We shall make available to the DTTDC any additional information it may find necessary or require

¹ All blank spaces shall be suitably filled up by the Bidder to reflect the particulars relating to such Bidder

- to supplement or authenticate the Proposal statement.
5. I/ We acknowledge the right of the DTTDC to reject our Proposal without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
 6. I/We certify that in the last three years, we/any of the Consortium Members or our/their 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, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
 7. I/We declare that:
 - (a) I/We have examined and have no reservations to the RFP document, including any Addendum issued by the DTTDC.
 - (b) I/We do not have any conflict of interest in accordance with Clauses 2.2.12 and 2.2.13 of the RFP document; and
 - (c) I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.1.3 of the RFP document, in respect of any tender or request for proposal issued by or any agreement entered into with the DTTDC or any other public sector enterprise or any government, Central or State; and
 - (d) I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFP document, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice.
 8. I/We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Proposal that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with Clause 2.7 of the RFP document.
 9. I/We believe that we/our Consortium/proposed Consortium satisfy (ies) the Technical Capacity and Financial Capacity criteria and meet all the requirements as specified in the RFP document and are qualified to submit a Bid.
 10. I/We declare that we/any Member of the Consortium, or our/its Associates are not a Member of a/any other Consortium applying for qualification.

11. I/We certify that in regard to matters other than security and integrity of the country, we/any Member of the Consortium or any of our/ their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. I/ We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Consortium or any of our/ their Associates have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. I/ We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Consortium or against our/ their Associates or against our CEO or any of our Directors/ Managers/ employees.
14. I/ We further certify that we are qualified to submit a Bid in accordance with the guidelines for qualification of bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment issued by the GOI vide Department of Disinvestment OM No. 6/4/2001-DD-II dated 13th July, 2001 which guidelines apply *mutatis mutandis* to the Bidding Process. A copy of the aforesaid guidelines forms part of the RFP at Appendix-VI thereof.
15. I/ We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFP; we shall intimate the DTTDC of the same immediately.
16. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of the RFP document, and duly signed, is enclosed. The Power of Attorney for signing of proposal and the Power of Attorney for Lead Member of consortium, as per format provided at Appendix IV and V respectively of the RFP, are also enclosed.
17. I/ We understand that the Successful Bidder shall either be an existing Company incorporated under the Indian Companies Act, 1956, or shall incorporate as such prior to execution of the Agreement.
18. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the DTTDC in connection with the selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
19. I/ We agree and undertake to abide by all the terms and conditions of the RFP document.

20. {We agree and undertake to be jointly and severally liable for all the obligations of the Operator under the Agreement till achievement of Commercial Operations Date in accordance with the Agreement.}²

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

Yours faithfully,

Date: (Signature, name and designation of the Authorised Signatory)

Place: Name and seal of the Bidder/ Lead Member

Note: Paragraphs in square parenthesis may be omitted, if not applicable, or modified as necessary.

² Omit if the Bidder is not a Consortium

ANNEX-I
DETAILS OF BIDDER

1.
 - (a) Name:
 - (b) Country of incorporation:
 - (c) Address of the corporate headquarters and its branch office(s), if any, in India:
 - (d) Date of incorporation and/ or commencement of business:

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

3. Details of individual(s) who will serve as the point of contact/ communication for the DTTDC:
 - (a) Name:
 - (b) Designation:
 - (c) Company:
 - (d) Address:
 - (e) Telephone Number:
 - (f) E-Mail Address:
 - (g) Fax Number:

4. Particulars of the Authorised Signatory of the Bidder:
 - (a) Name:
 - (b) Designation:
 - (c) Address:
 - (d) Phone Number:
 - (e) Fax Number:

5. In case of a Consortium:
 - (a) The information above (1-4) should be provided for all the Members of the Consortium.
 - (b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.1.2(g) should be attached to the Proposal.
 - (c) Information regarding the role of each Member should be provided as per table below:

Sl. No.	Name of Member	Role* {Refer Clause 2.1.2 (d)} ³	Percentage of equity in the Consortium{Refer Clauses 2.1.2 (a), (c) & (g)}
1.			
2.			
3.			
4.			

* The role of each Member, as may be determined by the Bidder, should be indicated in accordance with instruction 4 at Annex-IV.

6. The following information shall also be provided for each Bidder/Member of the Consortium:

Name of Bidder/ Member of Consortium:

No.	Criteria	Yes	No
1.	Has the Bidder/ constituent of the Consortium been barred by the [Central/ State] Government, or any entity controlled by it, from participating in any project (BOT or otherwise).		
2.	If the answer to 1 is yes, does the bar subsist as on the date of Proposal.		
3.	Has the Bidder/ constituent of the Consortium paid liquidated damages of more than 5% of the contract value in a contract due to delay or has been penalised due to any other reason in relation to execution of a contract, in the last three years?		

7. A statement by the Bidder and each of the Members of its Consortium (where applicable) or any of their Associates disclosing material non- performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary):

³ All provisions contained in curly parenthesis shall be suitably modified by the Bidder to reflect the particulars relating to such Bidder

ANNEX-II
TECHNICAL CAPACITY OF THE BIDDER[@]

(Refer to Clauses 2.1.3(a), 3.3 of the RFP)

Name of the Bidder	Project Code**	Name of Eligible Project	Nature of Eligible Project	Experience			
				(Equivalent Rs. Cr.) ^{\$\$}			
				Annual Turnover from Project from activities specified in Clause 2.1.3 a (i)			Average Annual Turnover
			FY 2013-14	FY 2012-13	FY 2011-12		
Single Entity							
Consortium Member							

[@] Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 2.1.4 and/ or by a project company eligible under Clause 3.3

[#] A Bidder should use separate rows to demonstrate own projects and projects of Consortium Members, clearly indicating in each row name of the entity whose experience is being claimed. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Bidder with such Associate, in terms of Clause 2.1.4, shall be provided.

** Refer Annex – IV of this Appendix

^{\$} For conversion of US Dollars to Rupees, the rate of conversion shall be Rupees 50 (Fifty) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.

ANNEX-III
FINANCIAL CAPACITY OF THE BIDDER
 (Refer to Clauses 2.1.3 (b) and 3.6 of the RFP)
 (In Rs. Crore^{\$\$})

Bidder Name	Net Worth [€]
	Year 2013-14
Single entity ^{\$} Bidder	
Consortium Member 1	
Consortium Member 2	
Associate	
TOTAL	

Name & Address of Bidder's Bankers:

\$ A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Consortium Members. In case of a Consortium, row titled Single entity Bidder may be ignored.

€The Bidder should provide details of its own Financial Capability or of an Associate specified in Clause 2.1.4.

\$\$ For conversion of other currencies into rupees, see note below Annex-II of Appendix-I.

Instructions:

1. The Bidder/ its constituent Consortium Members shall attach copies of the Balance Sheets, financial statements and Annual Reports for 5 (five) financial years preceding the Bid Due Date. The financial statements shall:
 - (a) reflect the financial situation of the Bidder or Consortium Members and its/ their Associates where the Bidder is relying on its Associate's financials;
 - (b) be audited by a Statutory Auditor;
 - (c) be complete, including all Notes to the financial statements; and
 - (d) Correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. Annual Turnover shall mean the income received from goods and services in respect of activities specified in Clause 2.1.3 (a) during the accounting period. Other income, including but not limited to interest income, income from sale of assets, shall not be included in the definition of Annual Turnover.
3. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
4. In the case of a Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.1.2(g) of the RFP document.
5. The Bidder shall also provide the name and address of the Bankers to the Bidder.
6. The Bidder shall provide an Auditor's Certificate specifying the net worth.
7. The Bidder shall provide an Auditor's Certificate specifying the turnover of the Bidder from the activities specified in Clause 2.1.3 (a) of RFP.

ANNEX-IV
DETAILS OF ELIGIBLE PROJECTS
 (Refer to Clauses 2.1.3 (a), 3.3 of the RFP)

Project Code:**Member Code:**

Item	Refer Instruction	Particulars of the Project
Title of the project		
Category (Catering/ hotels/ restaurants/ holiday centers and other short stay accommodations/ cafés/ takeaways/ mobile food stands/ clubs lodging/ event planning and management/ theme parks/ entertainment and recreation)		
Turnover from activities specified in Clause 2.1.3(a): FY 2013-14 FY 2012-13 FY 2011-12		
Entity for which the project is being operated		
Location		
Details of Eligible Project		
Date of commencement of contract		
Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No)		

Instructions:

- Bidders are expected to provide information in respect of each Eligible Projects in this Annex. The projects cited must comply with the eligibility criteria specified in Clause 3.3 of the RFP, as the case may be. Information provided in this section is intended to serve as a backup for information provided in the Proposal. Bidders should also refer to the instructions below.
- For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder is a

Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.

3. A separate sheet should be filled for each project.
4. In case the Eligible Project relates to an Associate of the Bidder or its Member, write “Associate” along with Member Code.
5. Certificate from the Bidder’s Statutory Auditor^S must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have Statutory Auditors, the auditors who audit the annual accounts of the Bidder/ Member/Associate may provide the requisite certification.

Certificate from the Statutory Auditor regarding Eligible Projects [Ⓞ]

Based on its books of accounts and other published information authenticated by it, this is to

certify that *(name of the Bidder/Member/Associate)* i.e. claimant is/ was an equity shareholder in *(title of the project company)* i.e. Project Company, who operates the project and holds/ held Rs. cr. (Rupees crore) of equity (which constitutes%[€] of the total paid up and subscribed equity capital) of the project company from *(date)* to *(date)*[¥].

The project, namely,, located at is being operated and maintained by *(name of the Bidder/Member/Associate/Project Company)* since *(date)* till date.

We further certify that *(name of the Bidder/Member/Associate/Project Company)* had Annual Turnover, in respect of activities specified in Clause 2.1.3 (a) of RFP, from the project in past five financial years, as given below in an year-wise format:

- Year.....: Rs
- Year.....: Rs
- Year.....: Rs

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of the authorised signatory)

Date:

6. Bidders are required to produce Client Certificates, Invoices, Order Letter, Completion Certificates etc. to substantiate the experience demonstrated.

Φ Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.

7. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.1.4, the Bidder should also provide a certificate in the format below:

Certificate from Statutory Auditor/ Company Secretary regarding Associate[§]

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid up voting equity of (i.e. Associate of the Bidder) is held, directly or indirectly[£], by (i.e. Bidder). By virtue of the aforesaid share-holding, the bidder exercises control over the Associate, who is an Associate in terms of Clause 2.1.4 of the RFP.

A brief description of the said equity held, directly or indirectly, is given below:

{Describe the share-holding of the Bidder in the Associate}

Name of the audit firm:

Seal of the audit firm: (Signature, name and designation of Date: the authorised signatory).

[§] In the event that the Bidder/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.

[£] In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% in order to establish that the chain of “control” is not broken.

ANNEX-V
STATEMENT OF LEGAL CAPACITY

(To be forwarded on the letterhead of the Bidder)

Ref. Date:

To,
General Manager,
Delhi Tourism & Transportation Development Corporation Ltd.,
18-A, DDA, SCO, Shopping Complex,
Defence Colony,
New Delhi - 110 024.

Dear Sir,

We hereby confirm that we/ our members in the Consortium (constitution of which has been described in the proposal) satisfy the terms and conditions laid out in the RFP document.

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

We have agreed that (insert individual's name) will act as our representative/ will act as the representative of the consortium on its behalf* and has been duly authorized to submit the RFP. Further, the authorised signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

**Please strike out whichever is not applicable.*

APPENDIX – II
FINANCIAL PROPOSAL

(Refer Clauses 2.2.3 and 2.16.1)

Dated: _____

To
General Manager,
Delhi Tourism & Transportation Development Corporation Ltd.,
18-A, DDA, SCO, Shopping Complex,
Defence Colony,
New Delhi - 110 024.

**Sub: BID for Operation, Management and Transfer of Air Conditioned Food Court and Roof Top
Dinning in Dilli Haat, Janakpuri**

Dear Sir,

With reference to your RFP document dated *****, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our BID for the aforesaid Project. The BID is unconditional and unqualified.

2. All information provided in the Bid and in the Appendices is true and correct.
3. We acknowledge that our Consortium/ proposed Consortium shall be short-listed on the basis of Technical Capacity and Financial Capacity of us and our Associates.
4. [I/We acknowledge and agree that there will be no change in control of an Associate whose Technical Capacity and/or Financial Capacity was taken into consideration for the purposes of shortlisting and qualification under and in accordance of RFP.
5. In the event of my/ our being declared as the Successful Bidder, I/We agree to enter into a Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
6. I/We have studied all the Bidding Documents carefully and also surveyed the project site. We understand that except to the extent as expressly set forth in the Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the DTTDC or in respect of any matter arising out of or concerning or relating to the Bidding Process including the award of Concession.

7. The Annual Concession Fee has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Agreement, our own estimates of costs and after a careful assessment of the site and all the conditions that may affect the Bid.
8. I/We offer a Bid Security of Rs. _____/- (Rupees in words) to the DTTDC in accordance with the RFP Document.
9. The Bid Security in the form of a Demand Draft/ Bank Guarantee (strike out whichever is not applicable) is attached.
10. I/We agree and understand that the BID is subject to the provisions of the Bidding Documents. In no case, I/We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened.
11. I/We hereby submit our BID and offer an Annual Concession Fee in the form of Rs ____ (Rupees in words) of DTTDC for undertaking the aforesaid Project in accordance with the Bidding Documents and the Agreement.
12. The Annual Concession Fee shall be increased, after every 3 years, at the rate of 18% (fifteen percent), over the previous Annual Concession Fee.
13. I/We agree to keep this offer valid for 120 (one hundred and twenty) days from the Bid Due Date specified in the RFP.
14. I/We agree and undertake to abide by all the terms and conditions of the RFP document.

In witness thereof, I/we submit this BID under and in accordance with the terms of the RFP document. Also, I/We certify that amount quoted on the bid submitted electronically to DTTDC is same as on this document.

Yours faithfully, Date:

(Signature of the Authorised signatory)

Place:

(Name and designation of the of the Authorised signatory)

Name and seal of Bidder

Note: Paragraphs in square parenthesis may be omitted, if not applicable, or modified as necessary.

APPENDIX – III
BANK GUARANTEE FOR BID SECURITY

(Refer Clauses 1.2.4)

B.G. No.

Dated:

1. In consideration of you, General Manager, Delhi Tourism & Transportation Development Corporation, having its office at *****, (hereinafter referred to as the “DTTDC”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Bid of _____ [a Company registered under provision of the Companies Act, 1956] and having its registered office at _ [and acting on behalf of its Consortium] (hereinafter referred to as the “**Bidder**” which expression shall unless it be repugnant to the subject or context thereof include its/their executors administrators, successors and assigns), for the Project – Operator for Air-conditioned Food Court and Usable Rooftop Area in Dilli Haat, Janakpuri (hereinafter referred to as “the **Project**”) pursuant to the RFP Document dated ***** issued in respect of the Project and other related documents (hereinafter collectively referred to as “**Bidding Documents**”), we [Name of the Bank] having our registered office at ____ and one of its branches at New Delhi, Delhi _____ (hereinafter referred to as the “**Bank**”), at the request of the Bidder, do hereby in terms of Clause 2.2.5 read with Clause 2.2.6 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfillment and compliance of the terms and conditions of the Bidding Documents (including the RFP Document) by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the DTTDC an amount of Rs. ***** (Rupees ***** only) at the branch in _____, New Delhi, as bid security (hereinafter referred to as the “**Bid Security**”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfill or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. Any such written demand made by the DTTDC stating that the Bidder is in default of the due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without

any reference to the Bidder or any other person and irrespective of whether the claim of the DTTDC is disputed by the Bidder or not merely on the first demand from the DTTDC stating that the amount claimed is due to the DTTDC by reason of failure of the Bidder to fulfill and comply with the terms and conditions contained in the Bidding Documents including failure of the said Bidder to keep its Bid open during the Bid validity period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs. ***** (Rupees ***** only).

4. This Guarantee shall be irrevocable and remain in full force for a period of 180 (one hundred and eighty) days from the Bid Due Date inclusive of a claim period of 60 (sixty) days or for such extended period as may be mutually agreed between the DTTDC and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the DTTDC shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfillment and compliance with the terms and conditions contained in the Bidding Documents including, inter alia, the failure of the Bidder to keep its Bid open during the Bid validity period set forth in the said Bidding Documents, and the decision of the DTTDC that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the DTTDC and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other DTTDC.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the DTTDC shall be entitled to treat the Bank as the principal debtor. The DTTDC shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Notice of Award by the Bidder or the period for fulfillment and compliance with all or any of the terms and conditions contained in the said Bidding Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding

Documents or the securities available to the DTTDC, and the Bank shall not be released from its liability under these presents by any exercise by the DTTDC of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the DTTDC or any indulgence by the DTTDC to the said Bidder or by any change in the constitution of the DTTDC or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.

8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch who shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the DTTDC to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the DTTDC may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the DTTDC in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. This Bank Guarantee no. _____, dated _____ shall be operative at New Delhi and if invoked, be encashable at the _____ [name of the bank and its branch at New Delhi], branch code no.: _____

Signed and Delivered by _ _____ Bank

By the hand of Mr./Ms _____, its _____ and authorised official.

(Signature of the Authorised Signatory)

(Official Seal)

APPENDIX – IV
POWER OF ATTORNEY FOR SIGNING OF BID

(Refer Clause 2.2.7)

Know all men by these presents, We, _____ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr./Ms (Name), son/daughter/wife of _____ and presently residing at _____, who is [presently employed with us/ the Lead Member of our Consortium and holding the position of _____], as our true and lawful attorney (hereinafter referred to as the “Attorney”) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the Project – Operator for Air-conditioned Food Court and Usable Rooftop Area in Dilli Haat, Janakpuri (hereinafter referred to as “the Project”) proposed or being developed by the Delhi Tourism & Transportation Development Corporation (the “DTTDC”) including but not limited to signing and submission of all proposals, bids and other documents and writings, participate in bidders' and other conferences and providing information / responses to the DTTDC, representing us in all matters before the DTTDC, signing and execution of all contracts including the Agreement and undertakings consequent to acceptance of our bid, and generally dealing with the DTTDC in all matters in connection with or relating to or arising out of our bid for the said Project and/or upon award thereof to us and/or till the entering into of the Agreement with the DTTDC.

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

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

For_ _____
(Signature)

(Name, Title and Address)

Witnesses:

1.

2.

Accepted

[Notarised]

(Signature)

(Name, Title and Address of the Attorney)

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *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.*

APPENDIX – V
POWER OF ATTORNEY FOR LEAD MEMBER OF CONSORTIUM

(Refer Clause 2.2.8)

Whereas the Delhi Tourism and Transportation Development Corporation (the “DTTDC”) has invited bids from eligible parties for the Project – Operator for Air-conditioned Food Court and Usable Rooftop Area in Dilli Haat, Janakpuri (hereinafter referred to as “the **Project**”).

Whereas, _____, and (collectively the “Consortium”) being Members of the Consortium are interested in bidding for the Project in accordance with the terms and conditions of the Request for Proposal and other connected documents in respect of the Project, and

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

NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, _____ having our registered office at _____ and M/s. _____, having our registered office at _____ [the respective names and addresses of the registered office] (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorise M/s. _____, having its registered office at _____, being one of the Members of the Consortium, as the Lead Member and true and lawful attorney of the Consortium (hereinafter referred to as the “Attorney”) and hereby irrevocably authorise the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the Concession/ Contract, during the execution of the Project and subsistence of the Agreement, and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all bids and other documents and writings, participate in bidders’ and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to

acceptance of the bid of the Consortium and generally to represent the Consortium in all its dealings with the DTTDC, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Agreement is entered into with the DTTDC.

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

AND hereby also ratify and confirm that if we are selected as the Successful Bidder, then the Lead Member of the Consortium shall sign the Agreement and all the Consortium members shall be jointly and severally liable towards the Project, throughout the Agreement Period.

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

For _____

(Name & Title)

For _____

(Name & Title)

Witness:

1.

2.

(Executants)

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

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- *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.*

APPENDIX – VI
GUIDELINES OF THE DEPARTMENT OF DISINVESTMENT

(Refer Clause 1.2.1)

No. 6/4/2001-DD-II

Government of India

Department of Disinvestment

Block 14, CGO Complex

New Delhi.

Dated 13th July 2001

OFFICE MEMORANDUM

Sub: Guidelines for qualification of Bidders seeking to acquire stakes in Public Sector Enterprises through the process of disinvestment

Government has examined the issue of framing comprehensive and transparent guidelines defining the criteria for bidders interested in PSE-disinvestment so that the parties selected through competitive bidding could inspire public confidence. Earlier, criteria like net worth, experience etc. used to be prescribed. Based on experience and in consultation with concerned departments, Government has decided to prescribe the following additional criteria for the qualification/ disqualification of the parties seeking to acquire stakes in public sector enterprises through disinvestment:

- (a) In regard to matters other than the security and integrity of the country, any conviction by a Court of Law or indictment/ adverse order by a regulatory authority that casts a doubt on the ability of the bidder to manage the public sector unit when it is disinvested, or which relates to a grave offence would constitute disqualification. Grave offence is defined to be of such a nature that it outrages the moral sense of the community. The decision in regard to the nature of the offence would be taken on case to case basis after considering the facts of the case and relevant legal principles, by the Government of India.
- (b) In regard to matters relating to the security and integrity of the country, any charge- sheet by an agency of the Government/ conviction by a Court of Law for an offence committed by the bidding party or by any sister concern of the bidding party would result in disqualification. The

decision in regard to the relationship between the sister concerns would be taken, based on the relevant facts and after examining whether the two concerns are substantially controlled by the same person/ persons.

- (c) In both (a) and (b), disqualification shall continue for a period that Government deems appropriate.
- (d) Any entity, which is disqualified from participating in the disinvestment process, would not be allowed to remain associated with it or get associated merely because it has preferred an appeal against the order based on which it has been disqualified. The mere pendency of appeal will have no effect on the disqualification.
- (e) The disqualification criteria would come into effect immediately and would apply to all bidders for various disinvestment transactions, which have not been completed as yet.
- (f) Before disqualifying a concern, a Show Cause Notice why it should not be disqualified would be issued to it and it would be given an opportunity to explain its position.
- (g) Henceforth, these criteria will be prescribed in the advertisements seeking Expression of Interest (EOI) from the interested parties. The interested parties would be required to provide the information on the above criteria, along with their Expressions of Interest (EOI). The bidders shall be required to provide with their EOI an undertaking to the effect that no investigation by a regulatory authority is pending against them. In case any investigation is pending against the concern or its sister concern or against its CEO or any of its Directors/ Managers/ employees, full details of such investigation including the name of the investigating agency, the charge/ offence for which the investigation has been launched, name and designation of persons against whom the investigation has been launched and other relevant information should be disclosed, to the satisfaction of the Government. For other criteria also, a similar undertaking shall be obtained along with EOI.

sd/-

(A.K. Tewari)

Under Secretary to the Government of India

APPENDIX VII
JOINT BIDDING AGREEMENT

(Refer Clause 2.13.1)

(To be executed on Stamp paper of appropriate value)

THIS JOINT BIDDING AGREEMENT is entered into on this the day of 20...

AMONGST

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

AND

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

The above mentioned parties of the FIRST and SECOND PART are collectively referred to as the “**Parties**” and each is individually referred to as a “**Party**”

WHEREAS,

- (A) DELHI TOURISM AND TRANSPORTATION DEVELOPMENT CORPORATION, a _____ constituted by Government of National Capital Territory of Delhi under _____, represented by its General Manager and having its principal offices at _____ (hereinafter referred to as the “**DTTDC**” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successor and assigns) has invited proposals (the “**Proposals**”) by its Request for Proposal No. dated (the “**RFP**”) for the selection of Operator for Air-conditioned Food Court and Usable Rooftop Area in Dilli Haat, Janakpuri (hereinafter referred to as “the **Project**”).
- (B) The Parties are interested in jointly bidding for the Project as members of a Consortium

and in accordance with the terms and conditions of the RFP document and other bid documents in respect of the Project, and

- (C) It is a necessary condition under the RFP document that the members of the Consortium shall enter into a Joint Bidding Agreement and furnish a copy thereof with the Proposal.

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Consortium

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

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

3. Covenants

The Parties hereby undertake that in the event the Consortium is declared the Successful Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the “**SPV**”) under the Indian Companies Act 1956 for entering into an Agreement with the DTTDC and for performing all its obligations as the Operator in terms of the Agreement for the Project.

4. Role of the Parties

The Parties hereby undertake to perform the roles and responsibilities as described below:

- (a) Party of the First Part shall be the Lead member of the Consortium and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Effective Date under the Agreement when all the obligations of the SPV shall become effective;
- (b) Party of the Second Part shall be {the Technical / Financial Member of the Consortium;}

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Agreement, throughout the Agreement Period.

6. Shareholding in the SPV

6.1 The Parties agree that the proportion of shareholding among the Parties in the SPV shall be as follows:

First Party:

Second Party:

6.2 The Parties undertake that a minimum of 51% (Fifty one percent) & 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV shall, at all times till the second anniversary of the Commercial Operations Date, be held by the Parties of the First part, and Second Part respectively whose Technical and Financial Capacities have been reckoned for the purposes of qualification of Bidders for the Project in terms of the RFP.

6.3 The Parties undertake that they shall collectively hold at least 77% (seventy seven per cent) of the subscribed and paid up equity share capital of the SPV at all times until the second anniversary of the Commercial Operations Date.

6.4 The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Agreement.

7. Representation of the Parties

Each Party represents to the other Parties as of the date of this Agreement that:

(a) Such Party is duly organized, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;

(b) The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:

(i) require any consent or approval not already obtained;

- (ii) violate any Applicable Law presently in effect and having applicability to it;
 - (iii) violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
 - (iv) violate any clearance, permit, concession, grant, license or other governmental authorisation, approval, judgment, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
 - (v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;
- (c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- (d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates 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 fulfillment of its obligations under this Agreement.

8. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Commercial Operations Date of the Project is achieved under and in accordance with the Agreement, in case the Project is awarded to the Consortium. However, in case the Consortium is either not pre-qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not qualified or upon return of the Bid Security by the DTTDC to the Bidder, as the case may be.

9. Miscellaneous

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

9.2 The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the DTTDC.

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

For and on behalf

SIGNED, SEALED AND DELIVERED

LEAD MEMBER by:

For and on behalf

SIGNED, SEALED AND DELIVERED

SECOND PART

(Signature)

(Address)

In the presence of:

- 1.
- 2.

(Signature) (Name)
(Name) (Designation)
(Designation)
(Address)

Notes:

1. The mode of the execution of the Joint Bidding Agreement should be in accordance with the procedure, if any, laid down by the Applicable Law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
2. Each Joint Bidding Agreement should attach a copy of the extract of the charter documents and documents such as resolution / power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member.
3. For a Joint Bidding Agreement executed and issued overseas, the document shall be legalised by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney has been executed.