



**ITPO**

Established under the aegis of Department of Commerce,  
Ministry of Commerce & Industry Government of India

**REQUEST FOR PROPOSAL**

**For**

**Selection of Transaction Advisor from the  
Empanelled TAs of Department of  
Economic Affairs for Selection of  
Developer cum Operator of Hotel Project  
at Bharat Mandapam, Delhi**

ITPO/Works Division (IECC)/Hotel Project/ 2024

3<sup>rd</sup> May 2024

(Bharat Mandapam, New Delhi-110001)

Email: [osditpo@itpo.gov.in](mailto:osditpo@itpo.gov.in)

Website: <http://www.indiatradefair.com>

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## **DISCLAIMER**

1. The information contained in this Bid document or subsequently provided to Bidders, whether verbally or in documentary form or otherwise by or on behalf of India Trade Promotion Organisation (ITPO), or by any of its employees, is provided to bidders on the terms and conditions set out in this Bid document and such other terms and conditions subject to which such information is provided.
2. The Bid document is neither an agreement nor an offer by ITPO to prospective Bidders or any other person. The purpose of this Bid document is to provide interested parties with information to assist in the formulation of their proposals for selection pursuant to this Bid. The assumptions, assessments, statements, and information contained in this Bid document may not be complete, accurate, adequate, or correct and each Bidder should conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments and information contained in this Bid document and obtain independent advice from appropriate sources.
3. ITPO, or its employees, 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 Bid or otherwise, including the accuracy, adequacy, correctness, reliability or completeness of the Bid any assessment, assumption or information contained therein or deemed to form part of this Bid document.
4. ITPO may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, its assessment or assumptions contained in this Bid document. Such changes shall be intimated to all the Bidders. In case additional period for submission, if required due to such amendments, is necessitated the same shall be intimated to all the Bidders.
5. The issue of this Bid document does not imply that ITPO is bound to select or to appoint any Bidder for the contract and it reserves the right to reject all or any of the Bidders without assigning any reasons whatsoever.
6. ITPO reserves the right not to proceed with the Bidding Process any time or stage, without notice or liability, and to reject any or all Bid(s) without assigning any reasons whatsoever.

## 1. Letter of Invitation

### 1.1 Invitation

India Trade Promotion Organisation (ITPO) extends an invitation to empanelled Transaction Advisors under the Department of Economic Affairs for their proposals in the selection process of a competent developer and operator. The objective is to engage in a competitive bidding procedure to construct, operate, and manage a 5 Star Hotel at Bharat Mandapam, governed by a long-term Concession Agreement

### 1.2 Background

ITPO, established under the aegis of Department of Commerce, Ministry of Commerce and Industry, Government of India. ITPO is committed to showcase excellence achieved by the country in diverse fields especially trade and commerce. Its mission is to promote, facilitate, encourage, and coordinate various activities and programme to enhance India's share of exports. The organisation provides a wide spectrum of services to trade and industry and acts as a catalyst for growth of India's trade and commerce.

The Competent Authority has approved that India Trade Promotion Organization (ITPO), a premier trade promotion agency of the Ministry of Commerce & Industry, Govt. of India, to transfer 3.70 acres of land at Bharat Mandapam on 99 years fixed leasehold basis. For selecting a suitable developer and operator through a competitive bidding process to construct, run and manage a 5 Star Hotel at Bharat Mandapam under a long-term Concession Agreement, a Transaction Advisor is to be appointed.

### 1.3 Objectives

The RFP has been issued to select a Bidder as the Transaction Advisor to undertake activities related to financial modelling, due diligence, risk assessment, negotiations, and overall guidance throughout the transaction process, as per the scope specifically elaborated in Section 4 of this RFP (the **“Assignment”**). The selection of the successful Bidder will be as per Quality and Cost Based Selection (QCBS) process.

The RFP has been divided in 4 sections.

Section 1: Letter of Invitation

Section 2: Data Sheet

Section 3: Instruction to Bidders

Section 4: Terms of Reference

**The RFP document, notices and any clarifications/ corrigenda will be published only on Central Public Procurement Portal ([www.eprocure.gov.in](http://www.eprocure.gov.in)), ITPO website and website of Department of Commerce for wide publicity.**

**Issuing Authority \_\_\_\_\_)**

## 2. Data Sheet

S.No.	Description	Detail												
1.	Name of Work	Selection of Transaction Advisor for Hotel Project at Bharat Mandapam on PPP Mode												
2.	Person In charge of Bid	Senior General Manager (SGM), ITPO												
3.	Tender Fee	Rs. 5,900 incl GST												
4.	Earnest Money	Rs. 5,00,000/-  Which shall be refunded after submission of Performance Guarantee by the Selected Bidder.  In respect of other Bidders, it shall be refunded immediately after the letter of appointment to the selected bidder.  Rs. 5,00,000/- is required to be paid through DD/RTGS/NEFT.												
5.	Performance Guarantee	5% of the Bid Value /- through Bank Guarantee												
6.	Accepting Authority	CMD, ITPO												
7.	Bid Validity Period	90 days from the date of opening of Financial Proposal.												
8.	Bank Details	<table border="1"> <tr> <td>Name of the Beneficiary</td> <td>ITPO</td> </tr> <tr> <td>Name of the Bank</td> <td>CENTRAL BANK OF IN DIA</td> </tr> <tr> <td>Bank Address</td> <td>PRAGATI MAIDAN, NEW DELHI-110001</td> </tr> <tr> <td>Account No.</td> <td>1167404133</td> </tr> <tr> <td>Type of Account</td> <td>SAVINGS</td> </tr> <tr> <td>IFSC</td> <td>CBIN 0284078</td> </tr> </table>	Name of the Beneficiary	ITPO	Name of the Bank	CENTRAL BANK OF IN DIA	Bank Address	PRAGATI MAIDAN, NEW DELHI-110001	Account No.	1167404133	Type of Account	SAVINGS	IFSC	CBIN 0284078
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<b>S.No.</b>	<b>Description</b>	<b>Detail</b>
9.	Method of Selection	The Agency will be selected on Quality and Cost Based Selection (QCBS) method.
10.	Queries and Clarification	The bidder shall submit queries for clarifications using MS word file in soft copy. The address for requesting clarification is: ITPO Pragati Bhawan, Bharat Mandapam New Delhi-110001 (INDIA) Email: osditpo@itpo.gov.in
11.	Last date of submission of queries	7 <sup>th</sup> May 2024, 6:00 PM
12.	Date of Response to Queries by ITPO	14 <sup>th</sup> May 2024, 6:00 PM
13.	Proposal Submission Dates	Start date/time: 3 <sup>rd</sup> May 2024, 6:00 PM End date/time: 24 <sup>th</sup> May 2024, 6:00 PM
14.	Pre-Bid Meeting	Date: 10 <sup>th</sup> May 2024 Time: 12:00 PM - 2:00 PM Venue: Admin Block, Bharat Mandapam
15.	Date of Technical Presentation	To be notified later
16.	Date of Financial Bid Opening	To be notified later
17.	Currency of Financial Proposal	The bidder to state cost in Indian Rupees Only
18.	DEA Empanelled Transaction Advisor List	www.dea.gov.in <a href="#">DEA Notification regarding Empanelled Transaction Advisers for Public Private Partnership Projects.pdf</a>



## 3. Instruction to Bidders

### 3.1 Introduction

- 3.1.1 ITPO, New Delhi represented by its Chairman and Managing Director (CMD) (the “Authority”) intends to select a Transaction Advisor for selection of Developer cum Operator of 5-Star Hotel Project at Bharat Mandapam, Delhi under a long-term Concession Agreement. The scope includes conducting pre-feasibility study, preparing Detailed Project Report (DPR), Floating of Request for Proposal (RFP), promote participation from bidders, evaluating bids, and assist ITPO in signing of Concession Agreement. The scope of services is further delineated in Section 4 of this RFP.
- 3.1.2 The bids are only being invited from list of Empanelled Transaction Advisors for Public Private Partnership Projects notified vide F. No 2/3/2021-PPP dated: 1<sup>st</sup> July 2022 issued by Government of India, and any amendments or update made by Ministry of Finance, Department of Economic Affairs, Private investment unit.
- 3.1.3 The Bidders are invited to submit Technical and Financial Proposals (collectively referred to as the “Proposal”), as specified in the clause 3.6, to deliver the services required for the Assignment. The Proposal will form the basis for award of Assignment to the Successful Bidder as defined in clause 3.7 of the RFP. The Bidder shall carry out the Assignment in accordance with the Terms of Reference provided in Section 4 of the RFP (the “Terms of Reference” or “TOR”).
- 3.1.4 The Bidder shall submit the Proposal in the form and manner specified in this RFP. The Proposal shall be submitted as per the forms given in relevant sections herewith.
- 3.1.5 Acknowledgement by the Bidder:
- (i) It shall be deemed that by submitting the Proposal, the Bidder has:
    - a) made a complete and careful examination of the RFP;
    - b) received all relevant information requested from the Authority by the Bidder;
    - c) accepted the risk of inadequacy, error or mistake in the information provided in the RFP or furnished by or on behalf of the Authority.

- d) satisfied itself about all matters, things, and information, including matters herein above, necessary and required for submitting the proposal and performance of all of its obligations thereunder.
- e) acknowledged that it does not have a Conflict of Interest; and
- f) agreed to be bound by the undertaking provided by it as per prescribed format and in terms thereof.

(ii) The Authority and/ or its employees, agents, advisors and consultants 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 or the Selection Process, including any error or mistake therein or in any information or data given by the Authority and/ or its employees, agents, advisors and consultants.

3.1.6 Number of Proposals: No Bidder shall submit more than one Proposal.

3.1.7 Cost of preparing the Proposal: Bidders shall bear all costs associated with the preparation and submission of their Proposal, and their participation in the Selection Process, and presentation including but not limited to postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by Authority, or any other costs incurred in connection with or relating to its Proposal. The Authority is not bound to accept any Proposal and reserves the right to annul the selection process at any time prior to issue of LOA, without thereby incurring any liability to the Bidders.

3.1.8 Authority requires that the Bidder hold Authority's interest paramount, avoid conflicts with other assignments or its own interests, and act without any consideration for future work. The Bidder shall not accept or engage in any assignment that may place it in a position of not being able to carry out the assignment in the best interests of Authority and the Project.

3.1.9 It is the Authority's policy to require that the Bidders observe the highest standard of ethics during the Selection Process and execution of Assignment. In pursuance of this policy, the Authority:

- a) will reject the Proposal for award if it determines that the Bidder has engaged in corrupt or fraudulent activities in competing the Assignment or any part thereof;
- b) will declare an Bidder ineligible, either indefinitely or for a stated period of time, from being awarded any contract or assignment if it at any time determines that the Bidder has engaged in corrupt or fraudulent practices in competing in the tender process pursuant to the RFP or during the execution of the Assignment.

3.1.10 Right to reject any or all Proposals:

- (i) Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Proposal and to annul the Selection Process and reject all Proposals, at any time without any liability or any obligation whatsoever, and without assigning any reasons thereof.
- (ii) Without prejudice to the generality of above, the Authority reserves the right to reject any Proposal if:
  - (a) at any time, a material misrepresentation is made or discovered or the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Proposal.
  - (iii) Such misrepresentation/ improper response by the Bidder may lead to the disqualification of the Bidder. If such disqualification/ rejection occurs after the Proposals have been opened and the highest-ranking Bidder gets disqualified/ rejected, then the Authority reserves the right to consider the next best Bidder or take any other measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Selection Process.

## **3.2 Clarification and amendment of RFP Documents**

- 3.2.1 Bidders may seek clarification on this RFP Document, before the date as provided in the Data Sheet in Section 2 of the RFP. Any request for clarification must be sent by standard electronic means

(PDF and/or word file) to the address as provided in the Data Sheet. Notwithstanding anything contrary to 3.2.2, the Authority will endeavour to respond to the queries prior to the Proposal Due Date.

- 3.2.2 At any time before the submission of Proposals, the Authority may, for any reason, whether at its own initiative or in response to a clarification requested by a prospective Bidder, modify the RFP Documents by an amendment. In order to afford the Bidders a reasonable time for taking an amendment into account, or for any other reason, the Authority may at its discretion extend the Proposal Due Date
- 3.2.3 Date of Pre-Bid Meeting and venue is mentioned in Data Sheet. The conduct of Pre-Bid Meeting shall be followed in accordance with the provisions of clause 3.10.

### **3.3 Earnest Money Deposit and Performance Guarantee**

- 3.3.1 An Earnest Money Deposit (“EMD”) should in the form of demand draft or bank transfer issued from any of the scheduled commercial bank and should be valid for a period of 90 days beyond the Bid Validity Period (see Data Sheet), in favour of Senior General Manager, ITPO, India Trade Promotion Organisation, New Delhi, payable at New Delhi, for the sum as provided in the Data Sheet.
- 3.3.2 The Demand Draft in original or a copy of proof of Bank Transfer shall be placed in an envelope and marked as – [EMD for Selection of Transaction Advisor] and not to be opened except in the presence of Authority or an evaluation committee constituted by ITPO. Proposals received without the specified EMD will be summarily rejected.
- 3.3.3 Authority will not be liable to pay any interest on EMD. EMD of Bidders who do not qualify shall be returned, without any interest, within one month after issue of LOA to the Successful Bidder or when the selection process is cancelled by Authority. The EMD of Successful Bidder shall be returned adjusted against Security deposit to be deducted progressively from the bills to be paid time to time.
- 3.3.4 Authority will be entitled to forfeit and appropriate the EMD as loss and damage payable to Authority in regard to the RFP without

prejudice to Authority's any other right or remedy under the following conditions:

- (i) If an Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice, or restrictive practice as envisaged under this RFP (including the Standard Form of Contract); or
- (ii) If any Bidder withdraws its Proposal during the period of its validity as specified in this RFP and as extended by the Bidder from time to time; or
- (iii) In case of Successful Bidder, if the Successful Bidder fails to accept the Agreement or fails to provide the Performance Guarantee within specified time limit, or
- (iv) If the Bidder commits any breach of terms of this RFP or is found to have made a false representation to Authority.

3.3.5 Performance Guarantee: A Performance Guarantee equivalent to the amount indicated in the data sheet shall be furnished by the Successful Bidder before entering into the Agreement with Authority in the form of a Bank Guarantee as per format specified in the RFP. The Performance Guarantee shall be returned after the completion of the project. The Successful Bidder shall be required to submit the Performance Guarantee with validity and claim period complying to above mentioned timelines.

3.3.6 Any entity which has been barred by the Central Government, any State Government, a statutory authority, or a public sector undertaking, as the case maybe, from participating in any project or tender and the bar subsists as on Proposal Due Date, would not be eligible to submit a Proposal.

3.3.7 A Bidder should have, during the last 3 (three) years, neither failed to perform on any agreement, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder.

### **3.4 Preparation of Proposal**

- 3.4.1 Language and Format: Bidders are requested to submit their Proposal only in English language and strictly in the formats provided in this RFP.
- 3.4.2 In preparing their Proposal, Bidders are expected to thoroughly examine the RFP Document. The Authority will evaluate only those Proposals that are received in the specified forms and complete in all respects.
- 3.4.3 The technical proposal should provide the Documents as prescribed in clause 3.4 of this RFP. No information related to financial proposal should be provided in the technical proposal.
- 3.4.4 Failure to comply with the requirements spelt out above shall lead to Authority being entitled to reject the Proposal. However, if any information related to financial proposal is included in the technical proposal the applicant shall be disqualified and his proposal will not be considered.
- 3.4.5 The Proposals must be signed by the Authorized Representative as detailed below:
- (i) by a partner, in case of a limited liability partnership; or
  - (ii) by a duly authorized person holding the Power of Attorney / authority through a certified Board Resolution, in case of a private company, a public company or a corporation.
- 3.4.6 Bidders should note the Proposal Due Date, as specified in Data Sheet, for submission of Proposals. Except as specifically provided in this RFP, no supplementary material will be entertained by the Authority, and the evaluation will be carried out only on the basis of information received by Proposal Due Date as specified in the Data Sheet. Bidders will ordinarily not be asked to provide additional material information or Documents subsequent to the date of submission, and unsolicited material if submitted will be summarily rejected. For the avoidance of doubt, the Authority reserves the right to seek clarifications in case the proposal lacks information on any aspect.

### 3.4.7 Financial proposal

While preparing the Financial Proposal, Bidders are expected to take into account the various requirements and conditions stipulated in this RFP. The Financial Proposal should be a lump sum proposal inclusive of all the costs associated with the Assignment. While submitting the Financial Proposal, the Bidder shall ensure the following:

- (i) All the costs associated with the Assignment shall be included in the Financial Proposal. These shall normally cover remuneration for all the personnel (expatriate and resident, in the field, office, etc.), local transportation at the location of deployment, equipment, printing of documents, secondary and primary data collection, etc. The total amount indicated in the Financial Proposal shall be without any condition attached or subject to any assumption and shall be final and binding. In case any assumption or condition is indicated in the Financial Proposal, it shall be considered non-responsive and liable to be rejected.
- (ii) The Financial Proposal shall take into account all the expenses and tax liabilities and cost of insurance specified in the Agreement or otherwise, levies and other impositions applicable under the prevailing law. For the avoidance of doubt, it is clarified that all taxes, excluding GST, shall be deemed to be included in the cost shown under different items of Financial Proposal. The Bidder shall be paid only GST over and above the cost of Financial Proposal. Further, all payments shall be subjected to deduction of taxes at source as per applicable laws.

3.4.8 The proposal should be submitted as per the standard Financial Proposal Price Bid/BOQ attached with RFP.

3.4.9 Bidders shall express the price of their services in Indian Rupees only.

## **3.5 Guidance to Bidder**

3.5.1 The Bidders are required to submit their Proposals electronically on the CPP Portal, using valid Class II or Class III digital signature certificates with signing key usage (“DSC”). The instructions given below are meant to assist the Bidders on the CPP Portal, prepare their Proposals in accordance with the requirements and submit

their Proposals online on the CPP Portal. Further information regarding submission of Proposals on the CPP Portal (defined below) may be obtained from: <https://eprocure.gov.in/eprocure/app>

3.5.2 Due Date for submission:

- a) The Application or its modifications must be submitted no later than the deadline mentioned in the Schedule of Selection Process, or any extension to this deadline. The Authority will not accept any Proposal or its modification after the deadline. Applications submitted by any other mode or in a manner other than mentioned in 3.5.1 shall not be accepted.
- b) Authority may, at its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with Clause 3.2, uniformly for all Bidders.

3.5.3 No proposal shall be accepted after the closing time for submission of Proposals.

**3.6 Proposal Evaluation**

3.6.1 No proposal shall be accepted after the closing time for submission of Proposals. The Transaction Advisors Empanelled with Department of Economic Affairs will be eligible for Technical Evaluation. The Financial Proposals shall remain sealed until then.

3.6.2 The Technical Proposal shall be opened and evaluated only for those Bidders who are found qualified as per 3.6 above. The Technical Proposal of Bidders who meet the Minimum Qualification Criteria, shall be checked against

3.6.3 Technical evaluation requirements of the RFP. The Financial Proposal will be opened of only the Bidder(s) found technically qualified as per clause 4.2.2 of the RFP.

3.6.4 After the Proposal submission until the issue of LOA, if any Bidder wishes to contact the Authority on any matter related to its proposal, it should do so in writing at the address for Proposal submission. Any effort by the Bidder to influence the Authority during the Proposal evaluation, Proposal comparison or grant of the Agreement decisions may result in the rejection of the Bidder's proposal.



### 3.6.5 Responsiveness of Proposal

Prior to evaluation of Proposals, the Authority will determine whether each Proposal is responsive to the requirements of the RFP at each evaluation stage as indicated below. The Authority may, in its sole discretion, reject any Proposal that is not responsive hereunder. A Proposal will be considered responsive at each stage only if:

- a) Technical Proposal stage
  - (i) The Technical Proposal is received in the form and manner specified in this RFP;
  - (ii) It does not contain any condition or qualification; and
  - (iii) It is not non-responsive in terms hereof.
  - (iv) The proposal qualified as per criteria specified for technical evaluation in Section 4 of this RFP.
  
- b) Financial Proposal stage
  - (i) The Financial Proposal is received in the form and manner specified in this RFP.
  - (ii) It does not contain any condition or qualification; and
  - (iii) It is not non-responsive in terms hereof.

The Authority reserves the right to reject any Proposal which is non-responsive and no request for alteration, modification, substitution, or withdrawal will be entertained by the Authority in respect of such Proposals. However, Authority reserves the right to seek clarifications or additional information from the Bidder during the evaluation process. The Authority will subsequently examine and evaluate Proposals in accordance with the Selection Process detailed out below.

3.6.6 In case any Bidder that does not fulfil the criteria of any stage, the Proposal of such an Bidder will not be evaluated further.

### **3.7 Letter of Award and Agreement**

3.7.1 After selection as per Section 4 of the RFP, the Successful Bidder shall be notified of the award by ITPO, by registered letter or by official e-mail. The Successful Bidder shall acknowledge in writing, the receipt of the Letter of Award / Notification of award of work and shall send his acceptance to enter into the Contract within three (3) days from the receipt of the Letter of Award / Notification of work award. In the event, LoA duly signed by Successful Bidder is not received by the stipulated date, the Authority may consider, at its own discretion, extend the time for submission of signed LoA based on genuine reason. In case the LoA is not received by the stipulated date, the Earnest Money Deposit of the Successful Bidder will be forfeited, and the next highest-ranking bidder may be considered. The Successful Bidder shall enter into an agreement with ITPO within 3 (three) days of acceptance.

3.7.2 Performance Guarantee: The Successful Bidder shall within 10 days of issue of LoA shall submit the Performance Guarantee Amount.

### **3.8 Confidentiality**

Information relating to evaluation of Proposals and recommendations concerning grant of the Agreement shall not be disclosed to the Bidders who submitted the Proposals or to other persons not officially concerned with the process, until the Successful Bidder has been notified through issue of Letter of Award as 3.7.1.

### **3.9 Corrupt and Fraudulent Practices**

3.9.1 The Bidders and their respective officers, employees, agents, and advisors shall observe the highest standard of ethics during the Selection Process. Notwithstanding anything to the contrary contained in this RFP, the Authority will reject a Proposal without being liable in any manner whatsoever to the Bidder, if it determines that the Bidder has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice (collectively the

‘Prohibited Practices’) in the Selection Process. In such an event, the Authority will, without prejudice to its any other rights or remedies, forfeit and appropriate the Earnest Money Deposit or Performance Guarantee, as applicable, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, in regard to the RFP, including consideration and evaluation of such Bidder’s Proposal.

3.9.2 Without prejudice to the rights of the Authority under this Clause, hereinabove and the rights and remedies which the Authority may have under the RFP or the Agreement, if an Bidder or Agency, as the case may be, is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Selection Process, or after the issue of the RFP or the execution of the Agreement, such Bidder Agency shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 1 (one) year from the date such Bidder or Agency, as the case may be, is found by the Authority to have directly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case maybe.

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

“corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the action of any person connected with the Selection Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with the Selection Process or the RFP or has dealt with matters concerning the Agreement or arising there from, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process; or (ii) save as provided herein, engaging in any manner whatsoever, whether during the Selection Process or after the issue of the RFP 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 RFP or the Agreement, who at any time has been or is

a legal, financial or technical consultant / advisor of the Authority in relation to any matter concerning the Project;

- a) “fraudulent practice” means a misrepresentation or omission of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- b) “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any persons or property to influence any person’s participation or action in the Selection Process;
- c) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- d) “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 Selection Process.

### **3.10 Pre-Bid Meeting**

3.10.1 Pre-Bid Meeting of the Bidders will be convened off-line / online at the designated date, time and place as provided in the data sheet. A maximum of two representatives of each Bidder will be allowed to participate on production of an authorization letter from the Bidder. Bidders intending to attend the Pre-Bid Meeting should inform Authority in writing (email) beforehand.

3.10.2 During the course of Pre-Bid Meeting, the Bidders will be free to seek clarification and make suggestions for consideration of the Authority. The Authority will endeavor to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent, and competitive selection process.

### **3.11 Miscellaneous**

3.11.1 The Selection Process shall be governed by, and construed in accordance with, the laws of India and the Courts at New Delhi shall have exclusive jurisdiction over all disputes arising under, pursuant to and/or in connection with the Selection Process.

3.11.2 The Authority, in its sole discretion and without incurring any obligation or liability, reserves the right, at any time, to:

- (i) suspend and/or cancel the Selection Process and/or amend and/or supplement the Selection Process or modify the dates or other terms and conditions relating thereto;
- (ii) consult with any Bidder in order to receive clarification or further information;
- (iii) retain any information and/or evidence submitted to the Authority by, on behalf of and/or in relation to any Bidder; and/or
- (iv) 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.

3.11.3 It shall be deemed that by submitting the Proposal, the Bidder agrees and releases the Authority of any liability of its employees, agents and advisors, irrevocably, unconditionally, fully and finally 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 in respect of the proposal.

3.11.4 All Documents and other information provided by Authority or submitted by an Bidder to Authority shall remain or become the property of Authority. Bidders and the Agency, as the case may be, are to treat all information as strictly confidential. Authority will not return any Proposal, or any information related thereto. All information collected, analyzed, processed or in whatever manner available with the Bidder to Authority in relation to the assignment shall be the property of Authority. The pre-existing and proprietary Intellectual Property Rights of the Bidder shall remain with the Bidder.

3.11.5 The Authority reserves the right to make inquiries with any of the previous clients of the Bidder(s), claimed and stated in their previous experience submissions against required criteria of RFP.

### **3.12 Conflict of Interest**

3.12.1 A Bidder shall not have a conflict of interest that may affect the Selection Process or the fair participation of Agency, as specifically elaborated under 3.12.3

(the “Conflict of Interest”). Any Bidder found to have a Conflict of Interest shall be disqualified.

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

3.12.3 Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Selection Process, if:

- a) if it has common controlling shareholder(s) with another Bidder; provided that this disqualification shall not apply in cases where the direct or indirect shareholding or ownership interest of a Bidder (or any shareholder thereof having a shareholding of more than 5% (five per cent) of the paid up and subscribed share capital of such Bidder, as the case may be, in the other Bidder is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in sub-section (72) of section 2 of the Companies Act, 2013. For the purposes of this clause 2.15.3(i), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in

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

- b) a member of one consortium Bidder is also a member of another consortium Bidder; or
- c) a Bidder or its member/shareholder receives or has received any direct or indirect subsidy or grant from any other Bidder or its member/shareholder or has provided any such subsidy, grant, to any other Bidder or member/shareholder thereof; or
- d) such Bidder has the same legal representative for purposes of this RFP as any other Bidder; or
- e) such Bidder has a relationship with another Bidder, directly or through common third parties, that puts them in a position to have access to each other’s information about or to influence the Proposal of either or each of the other Bidder; or
- f) there is a conflict between the Assignment, and other assignments of the Bidder (including its personnel and sub-Contractor or consultant) and any subsidiaries or entities controlled by such Bidder or having common controlling shareholders. The duties of the Selected Bidder will depend on the circumstances of each case. While providing consultancy services to the Authority for this particular assignment, the Selected Bidder shall not take up any assignment that by its nature will result in conflict with the present assignment; or

- g) a firm which has been engaged by the Authority to provide goods or works or services for a project, and its Associates, will be disqualified from providing consulting services for the same project; conversely, a firm hired to provide consulting services for the preparation or implementation of a project, and its Members or Associates, will be disqualified from subsequently providing goods or works or services related to the same project.



## 4. Terms of Reference

### 4.1 General

#### 4.1.1 Project Introduction:

Bharat Mandapam, a landmark venue for large exhibitions and conventions in New Delhi, with 1,10,000 sq. meters of existing exhibition space, has been re-developed into Bharat Mandapam measuring approximately 3,82,000 square meters comprising of ultra-modern convention center and exhibition halls, administration building and basement and is envisioned as a world-class, transit-oriented, mixed use district, providing one of the largest facilities of its kind in India and Asia. Bharat Mandapam is a flagship project of Government of India and is foreseen as an internationally recognized architectural icon with innovative design and novel green building features.

- (i) Bharat Mandapam is flanked by Mathura Road to its West and Bhairon Road on the South. The main railway line to Central and Southern India run to its east. Bharat Mandapam is situated in Central Delhi and is directly connected to India Gate and Purana Qila Road. Metro Station and Pragati Maidan Bus Terminal are located adjacent to Bharat Mandapam.
- (ii) The design of the Bharat Mandapam comprises of an iconic convention center and exhibition halls. Considerations have been made by the use of environment friendly materials to achieve green building features. The overall layout of the Bharat Mandapam includes convention center, exhibition halls, restaurants, business center, and open exhibition space with parking in the basement. The end use of 3.70 acres of land at Bharat Mandapam given in the RFP is for construction of a 5-star hotel as per applicable norms.
- (iii) The layout of Bharat Mandapam including a hotel site of 3.70 acre on Bhairon Marg (near existing gate no 1) (“Land earmarked for the Hotel”) with exclusive entry and exit points has been approved by the Delhi Urban Art Commission and the South Delhi Municipal Corporation. The Ministry of Railways, Government of India has given its clearance to the Bharat Mandapam project including the Land earmarked for the Hotel

for construction of buildings within 30 (thirty) meters of the railway boundary, subject to verification of land. It must be noted that the issue relating to verification of land has since been settled at the appropriate level in Government of India. NOC may still be required from Railways as part of Hotel project as in case of other statutory/ non-statutory approvals. The site earmarked for Hotel is within the boundaries of land allotted to ITPO by the Land & Development Office (L&DO) – Ministry of Housing and Urban Affairs. The use of the Bharat Mandapam at Pragati Maidan, including for the Land earmarked for the Hotel, is permitted under the modifications in the said Master Plan for Delhi-2021 as set out in notification dated May 26, 2016 bearing no. S.O. 1901(E).

- (iv) The approved layout plan by South Delhi Municipal Corporation (SDMC) has already been uploaded along with the RFP with setbacks clearly demarcated. Setbacks norms applicable as per MPD-2021 for the entire master plan shall be applicable for this Land earmarked for the Hotel.
- (v) The Bharat Mandapam project has in-built comprehensive traffic interventions to decongest traffic in and around Bharat Mandapam which shall ensure Mathura Road being signal free from W Point (ITO) to Delhi Public School (DPS) Mathura Road. A tunnel cutting across Bharat Mandapam is being made connecting Purana Qila Road to Ring Road serving as an alternative option to Bhairon Marg. The detailed traffic interventions are as below:
  - a. Construction of tunnel connecting Purana Qila Road to Ring Road through Bharat Mandapam. Direct access from this tunnel has been provided to the basement parking of Bharat Mandapam. Access has also been provided from Mathura Road to this tunnel.
  - b. Mathura Road has been made signal free from W Point (ITO) to DPS Mathura Road. An underpass has been provided at Purana Qila Road for traffic going towards DPS Mathura Road. An access has been provided from this underpass to the traffic going towards Bhairon Marg.
  - c. An underpass has been provided at Sundar Nagar and signal free U-turns have been provided at Sundar Nagar

and Supreme Court. Access from the underpass at Supreme Court has been provided to the basement parking of Bharat Mandapam.

- d. A separate underpass has been provided at the junction of Bhairon Marg and Ring Road junction for traffic going towards Ring Road and Ashram
- e. Direct signal free entry and exit to the Bharat Mandapam parking from Bhairon Marg.

#### 4.1.2 Objective of this RFP

The Tendering Authority, on behalf of the Licensing Authority, is hereby inviting proposals from eligible bidders with the objective of selecting a Transaction Advisor from the list of empanelled TAs of Department of Economic Advisor for selection of Developer cum Operator of Hotel Project at Bharat Mandapam, Delhi on PPP Model. The Transaction Advisor will be required to carry out the entire bid process including preparation of transaction documents till onboarding of concessionaire.

## 4.2 Scope of Services

### 4.2.1 The scope of services shall include:

S.No	Milestone/ Deliverable	Details
A1	Submission of Inception Report	<ul style="list-style-type: none"> <li>▪ Compilation of Key facts</li> <li>▪ Preparation of Approach &amp; Methodology</li> <li>▪ Pre-feasibility study on assessment of potential revenue, real estate, investments, legal framework</li> <li>▪ Enumeration of Transaction methods and options</li> <li>▪ Work plan</li> </ul>
A2	Submission of Feasibility Report	<ul style="list-style-type: none"> <li>▪ Market study consisting of but not limited to: hotel industry, real estate including relevant micro-markets, and investor sentiment assessment.</li> <li>▪ Listing of Development alternatives.</li> <li>▪ Preparation of Feasibility analysis including, but not limited to the following items: Revenue estimates, Cost estimates, Capital estimates, taxation, DCF model.</li> </ul>
A3	Submission of DPR	<ul style="list-style-type: none"> <li>▪ Updation of feasibility report.</li> <li>▪ Compilation and analysis of relevant financial, tax, compliance, and legal issues.</li> <li>▪ Preparation of a consolidated list of approvals / consents / clearances required from Government authorities.</li> <li>▪ Analysis of Tax related issues and project structuring.</li> <li>▪ Identification and mitigation of risks and constraints and listing of revenue maximization initiatives.</li> <li>▪ Stakeholder interaction and feedback</li> </ul>

S.No	Milestone/ Deliverable	Details
		<ul style="list-style-type: none"> <li>▪ Detailed transaction process options, including 3 bidding platforms, their pros &amp; con, recommendation.</li> <li>▪ Detailed timelines and work plan.</li> </ul>
A4	Submission of RFP Document	<ul style="list-style-type: none"> <li>▪ Drafting of RFP / Transaction process document.</li> <li>▪ Drafting of Concessionaire document</li> <li>▪ Prepare Detailed bid evaluation process &amp; documents.</li> <li>▪ Outreach to potential investors / bidders including roadshows and events.</li> <li>▪ Create a database of potential hotel operators, investors, developers, minutes of meetings etc.</li> <li>▪ Conduct preliminary meeting and follow-up meetings.</li> <li>▪ Provide consultancy/advisory services in the matter of e-bidding to ITPO for a period of six months.</li> <li>▪ Compare and Suggest E-bidding portals and charges.</li> </ul>
A5	Completion of Bid evaluation stage and issue of LOA	<ul style="list-style-type: none"> <li>▪ Assist in Bidder registration, interaction and training.</li> <li>▪ Assist in Pre bid meeting, analysis of feedback and suggest corrective action.</li> <li>▪ Assist in preparing Corrigendum.</li> <li>▪ Assist in Bid process.</li> <li>▪ Assist in Bid evaluation.</li> <li>▪ Assist in issue of LOA.</li> <li>▪ If Bid fails, retender up to 3 times.</li> </ul>
A6	Signing of Concession Agreement	<ul style="list-style-type: none"> <li>▪ Assist in meetings.</li> <li>▪ Assist in signing of concession agreement.</li> </ul>

In addition to the primary scope of services outlined above, any incidental or related tasks provided by the India Trade Promotion Organisation (ITPO) shall be deemed within the purview of the Transaction Advisor's responsibilities. The Transaction Advisor shall undertake such tasks as necessary.

#### 4.2.1 Team Deployment

The following team members shall be deployed full-time on the project and should be stationed in Delhi.

Key Personnel	Minimum Educational Qualification	Minimum Experience and Eligible Assignments
1. Team Leader	MBA/ CA/ CFA/MCA	<p>He / She should have a minimum total experience of 12 years and experience in transaction advisory services of at least 5 (five) Eligible Assignments.</p> <p>Eligible Assignment: Assignments with a project value <math>\geq</math> Rs. 3 Cr. in India satisfying the following condition:</p> <ul style="list-style-type: none"> <li>• Completed an assignment in PPP mode in Real Estate Sector in the last 07 years.</li> <li>• Strategy with Govt. Authority, Centre, or State / or their agencies / PPP in India.</li> </ul>
2. Finance Expert	MBA/ CA/ CFA	<p>He / She should have minimum total experience of 7 years' experience and worked as a Finance expert in at least 3 (three) Eligible Assignments with experience of financial modelling.</p> <p>Eligible Assignment: Assignments with a project value <math>\geq</math> Rs. 3 Cr. in</p>

Key Personnel	Minimum Educational Qualification	Minimum Experience and Eligible Assignments
		India satisfying the following condition: <ul style="list-style-type: none"> <li>• Having conducted Financial Assessment, due diligence, and financial modeling for projects in Real Estate Sector in PPP mode.</li> </ul>
3. Civil Engineer	Degree in Civil Engineering / Urban Planning / Architecture	He / She should have a minimum total experience of 7 years and have worked on at least 5 Eligible Assignments.  Eligible Assignment: Assignments with a project value $\geq$ Rs. 3 Cr. in India satisfying the following condition: <ul style="list-style-type: none"> <li>• Experience in BOQ / Cost Estimates for Real Estate Sector.</li> </ul>
4. Legal Expert	Bachelor's degree in law	He / She should have a minimum total experience of 5 years and have worked as a legal expert in at least 3 (three) Eligible Assignments.  Eligible Assignment: Assignments with a project value $\geq$ Rs. 3 Cr. in India satisfying the following condition: <ul style="list-style-type: none"> <li>• Having experience in reviewing Contract Documents / Concession Agreements in Real Estate Sector.</li> </ul>

- Note: The Team Leader and Finance Expert should be on the payroll of the organization bidding for the Tender as on last date of Submission of Tender. The Transaction Advisor may engage a Sub-Consultant for the position of Civil Engineer and Legal

Expert and other services if required. The Sub-Consultant will be required to fulfil the conditions of the Key Personnel as per their respective role mentioned in the table above.

### **4.3 Eligibility Criteria for the Project**

4.3.1 The bidder must be Empanelled Transaction Advisor for Public Private Partnership Projects with Government of India, Ministry of Finance, Department of Economic Affairs, Private Investment Unit. Refer [DEA Notification regarding Empanelled Transaction Advisers for Public Private Partnership Projects.pdf](#).

4.3.2 The bidder shall not have been blacklisted by any Central Government Department/Authority.

### **4.4 Evaluation of Technical and Financial Proposal**

4.4.1 ITPO will determine whether the Technical & Financial Proposals are complete, unqualified, and unconditional. The costs indicated in the Financial Proposal shall be deemed as final and reflecting the cost of respective services. Omissions, if any, in costing any item shall not entitle the TA to be compensated and the liability to fulfil its obligations as per the TOR within the total quoted price shall be that of the TA.

4.4.2 For the purpose of technical evaluation, there are total of 100 marks which are divided as follows:

- a) Credentials: 30 Marks
- b) Approach & Methodology: 30 Marks
- c) Key Personnel: 40 Marks
- d) To technically qualify, the bidders shall have a minimum score of 70 marks or more. The marking scheme for Technical Evaluation is given in Annexure 13.

4.4.3 For the Applicants that qualify the Eligibility Criteria, the Technical Evaluation will consist of marks allocated to following three parts:

- a) TA shall present their **Approach and Methodology** to outline the systematic approach the TA plans to employ to address the project requirements or objectives.



- b) TA shall present their **Credentials** where credentials shall highlight annual average turnover, number of employees employed, relevant experience in “Similar Projects” that highlights the Transaction Advisor’s expertise and capability to undertake the project.

“Similar Project” means working as Transaction Advisor for PPP projects in Hotel / Tourism Sector / MICE / Multi-Level Buildings / Real Estate Sector. Substantially completed works are those which are 75% complete in terms of ToR and contract value.

Multi-level buildings are structures with multiple floors designed to accommodate various functions. Examples include malls, hotels, resorts, hospitals, and educational institutions. These buildings feature multiple levels to maximize space utilization.

- c) Team Personnel/ Key Personnel - Marks allocated to individual CVs as decided by ITPO. The marking scheme for Key Personnel is given in Annexure 13.

4.4.4 For Technical & Financial evaluation, the all-inclusive cost of services, of all short- listed TAs will be opened. The cost of services will be in two parts as under:

- a) Pre-feasibility study cost (all inclusive)  
b) End to end transaction advisory services (all-inclusive excluding pre- feasibility)

4.4.5 The empanelled TA will make a technical presentation on the parameters highlighted by ITPO of the specific assignment. The presentation will be evaluated by a committee appointed by the ITPO and provide a technical score.

4.4.6 The Financial proposal will be opened to those bidders who have been declared technically qualified as per clause 4.4.2.

4.4.7 The financial proposal for the technically qualified Bidders will then be opened on the notified date and time and reviewed to determine whether the financial proposals are substantially responsive. Financial Proposal(s) found to be not substantially responsive are liable to be disqualified at the Authority's discretion.

4.4.8 Errors & Rectification: Arithmetical errors will be rectified on the following basis:

a) If there is a discrepancy between words and figures, the amount in words will prevail.

b) The sum of individual components will be calculated to arrive at the total value of financial proposal, in case of discrepancy between the sum and the stated total in the financial proposal.

4.4.9 The Eligible Bidder(s) shall be ranked in the order of their financial quote (i.e. Financial Score 'F') mentioned in their Financial Proposal, such that the Bidder having lowest financial quote in the Financial Proposal shall be ranked F1, the Bidder having next lowest financial quote shall be ranked F2 and so on.

#### **4.5 Combined and Final Evaluation**

4.5.1 The final selection of the Agency would be based on combined evaluation of technical (T) and financial (F) scores through Quality and Cost Based Selection (QCBS) process, with following weightages allocated to technical and financial scores:

- a) Technical-70%
- b) Financial-30%

4.5.2 An Evaluated Bid Score (B) will be calculated for each responsive Bid using the following formula, which permits a comprehensive assessment of the Bid price and the technical merits of each Bid:

$$B = [(F_{\text{low}} / F) \times 0.30] + [(T / T_{\text{high}}) \times 0.70]$$

Where

F = Evaluated Bid Price

F<sub>low</sub> = the lowest of all Evaluated Bid Prices among responsive Bids

T = the total Technical Score awarded to the Bid

T<sub>high</sub> = the Technical Score achieved by the Bid that was scored best among all responsive Bids

4.5.3 The proposal obtaining the highest total combined score in evaluation of quality and cost will be ranked as B-1 followed by the proposals securing next lesser marks as B-2 and so on for B-3, B-4 etc. In the event two or more bids have the same score in final ranking, the bid with highest technical score will be B-1.

#### 4.6 Payment Schedule

Key Deliverable No.	Milestone/Deliverable	Payment (As %age of Cost of Consultancy for PPP projects as quoted in the financial proposal)
A1	Submission of Inception Report	5%
A2	Submission of Feasibility Report	10%
A3	Submission of DPR	15%
A4	Submission of RFP Document	25%
A5	Completion of Bid evaluation stage and issue of LOA	30%
A6	Signing of Concession Agreement	15%

4.6.1 The payments shall be released only after acceptance of the required work detailed in the RFP Document against the corresponding deliverable by the corresponding ITPO nodal officers. Should there be any observation to correct the key submission deliverables, same would be communicated; else it would be deemed to be accepted and payment shall be processed. The Transaction Advisor will rectify any shortcoming in the invoice, if pointed out and resubmit within 7 days' time for its payments.

4.6.2 The schedule for completing the Deliverables for a particular Assignment shall be determined at the time of issue of Letter of Award for respective Assignment. However, the total time for completing the Assignment will in no case be more than 12 months from the date of issue of work-order, except if extended with mutual agreement.

**4.7 Entire Duration of On-boarding Transaction Advisor**

4.7.1 The total duration for this Assignment of Transaction Advice shall be 12 (Twelve) months, excluding the time taken by ITPO in providing the requisite documents or in conveying its comments on the Drafts for Master Plan, Project Report, bid documents.

**4.8 Pre-Bid Meeting**

4.8.1 Applicants to send their requests to email id mentioned in Section 2 Data Sheet for receipt of the web-link for participation in the Pre-Bid Meeting.

4.8.2 All queries by prospective applicants must be sent to the following email id mentioned in Section 2 Data Sheet.

S. No.	Event Description	Timeline
1	Issue of RFP	<b>Refer to Data Sheet in Section 2 of this RFP</b>
2	Last date for receiving queries/ clarifications	
3	Pre-Bid Meeting	
4	ITPO’s response to queries	
5	Submission of Technical PPT + Financial Quote	
6	Invitation for Presentation	
7	Letter of Award (LOA)	

4.8.3 Applicants are advised to visit the ITPO's website mentioned in the Section 2 - Data Sheet to keep them updated, for any changes/modifications related to this RFP.

## **4.9 Other Terms**

- 4.9.1 The Transaction Advisors will work closely with the Asset Owner and its other Advisors. A designated representative of the Asset Owner and the ITPO will be responsible for the overall coordination. The representative will play a coordinating role in arranging required information, dissemination of the Transaction Advisor's outputs, facilitating discussions, and ensuring required reactions and responses to the Transaction Advisor.
- 4.9.2 Available data as may be required by the TA will be provided by the ITPO/ Asset Owner on request. The designated representative shall facilitate handing over of such information to the TA.
- 4.9.3 The Transaction Advisor will make presentations of its Deliverables to the ITPO and Asset owner for discussions as and when required.

## **4.10 Completion of Services**

- 4.10.1 All the deliverables shall be compiled, classified and submitted by the TA to the ITPO in soft form. The documents comprising the deliverables shall remain the property of the ITPO and shall not be used by the TA for any purpose other than that intended under these Terms of Reference without the permission of the ITPO. The Assignment shall stand completed on acceptance by the ITPO of all the Deliverables, as mandated under the work-order for the Assignment. Unless completed earlier, the Assignment shall be deemed completed and finally accepted by the ITPO and the final deliverable shall be deemed approved by the ITPO as satisfactory upon expiry of 60 (sixty) days after receipt of the final deliverable unless the ITPO, within such 60 (sixty) day period, gives written notice to the TA specifying in detail, the deficiencies in the services. The TA shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated.

## **Annexure 1 Draft Agreement for Provisions of Transaction Services**

### **Agreement for Provision of Transaction for Project**

This AGREEMENT (hereinafter called the “Agreement” made on the ..... day of the month of 2024, between, on the one hand, the [India Trade Promotion Organisation acting through .....] (hereinafter called the “Authority” which expression shall include their respective successors and permitted assigns, unless the context otherwise requires) and, on the other hand..... (hereinafter called the “Transaction Advisor” which expression shall include their respective successors and permitted assigns).

#### WHEREAS

- a) The Authority vide its Request for Proposal for appointment of Transaction Advisor (hereinafter called the “Consultancy”) for the ..... project (hereinafter called the “Project”
- b) The Transaction Advisor submitted its proposals for the aforesaid work, whereby the Transaction Advisor represented to the Authority that it had the required professional skills, and in the said proposals the Transaction Advisor also agreed to provide the Services to the Authority on terms and conditions as set forth in the RFP and this Agreement; and
- c) The Authority, on acceptance of the aforesaid proposals of the Transaction Advisor awarded the Consultancy the Transaction Advisor vide its Letter of Award dated ..... (the “LOA”); and
- d) In pursuance of the LOA, the parties have agreed to enter into this Agreement. NOW, THEREFORE, the parties hereto hereby agree as follows:

## 1. General

### 1.1. Definitions and Interpretation

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

- a) **"Additional Costs"** shall have the meaning set forth in Clause 6.1.2;
- b) **"Agreement"** means this Agreement, together with all the sections;
- c) **"Agreement Value"** shall have the meaning set forth in Clause 6.1.2;
- d) **"Applicable Laws"** means the laws and any other instruments having the force of law in India as they may be issued and in force from time to time;
- e) **"Confidential Information"** shall have the meaning set forth in Clause 3.3;
- f) **"Conflict of Interest"** shall have the meaning set forth in Clause 3.2 read with the provisions of RFP;
- g) **"Dispute"** shall have the meaning set forth in Clause 9.2.1;
- h) **"Effective Date"** means the date on which this Agreement comes into force and effect pursuant to Clause 2.1;
- i) **"Expatriate Personnel"** means such persons who at the time of being so hired had their domicile outside India;
- j) **"Government"** means the Government of India;
- k) **"INR.,"** means Indian Rupee;
- l) **"Party"** means the Authority or the Transaction Advisor, as the case may be, and Parties means both of them;
- m) **"Personnel"** means persons hired by the Transaction Advisor as employees or retainers and assigned to the performance of the Services or any part thereof;
- n) **"Resident Personnel"** means such persons who at the time of being so hired had their domicile inside India;
- o) **"RFP"** means the Request for Proposal document in response to which the Transaction Advisor's proposal for providing Services was accepted;
- p) **"Services"** means the work to be performed by the Transaction Advisor pursuant to this Agreement, as described in the Terms of Reference hereto;

- q) "**Sub-Consultant**" means any entity to which the Transaction Advisor sub- contracts any part of the Services in accordance with the provisions of Clause 4.7; and
- r) "**Third Party**" means any person or entity other than the Government, the Authority, the Transaction Advisor or a Sub-Consultant.

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

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

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

## **1.2. Relation between the Parties**

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

## **1.3. Rights and obligations**

The mutual rights and obligations of the Authority and the Transaction Advisor shall be as set forth in the Agreement, in particular:

- a) the Transaction Advisor shall carry out the Services in accordance with the provisions of the Agreement; and
- b) the Authority shall make payments to the Transaction Advisor in accordance with the provisions of the Agreement.



#### **1.4. Governing Law and Jurisdiction**

This Agreement shall be construed and interpreted in accordance with and governed by the laws of India, and the courts in the State in which the Authority has its headquarters shall have exclusive jurisdiction over matters arising out of or relating to this Agreement.

#### **1.5. Language**

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

#### **1.6. Table of contents and headings**

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

#### **1.7. Notice**

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

- a) in the case of the Transaction Advisor, be given by e-mail and by letter delivered by hand to the address given and marked for attention of the Transaction Advisor's Representative set out below in Clause 1.8 or to such other person as the Transaction Advisor may from time to time designate by notice to the Authority; provided that notices or other communications to be given to an address outside the city specified in Sub-clause (b) below may, if they are subsequently confirmed by sending a copy thereof by registered acknowledgement due, air mail or by courier, be sent by e-mail to the number I address as the Transaction Advisor may from time to time specify by notice to the Authority;

- b) in the case of the Authority, be given by e-mail and by letter delivered by hand and be addressed to the Authority with a copy delivered to the Authority Representative set out below in Clause 1.8 or to such other person as the Authority may from time to time designate by notice to the Transaction Advisor; provided that if the Transaction Advisor does not have an office in the same city as the Authority's office, it may send such notice by e- mail and by registered acknowledgement due, air mail or by courier; and
- c) any notice or communication by a Party to the other Party, given in accordance herewith, shall be deemed to have been delivered when in the normal course of post it ought to have been delivered and in all other cases, it shall be deemed to have been delivered on the actual date and time of delivery; provided that in the case of email, it shall be deemed to have been delivered on the working days following the date of its delivery.

### **1.8. Location**

- 1.8.1 The Services shall be performed at the offices of the Authority in accordance with the provisions of RFP and at such locations as are incidental thereto, including the offices of the Transaction Advisor.
- 1.8.2 The Authority may require the Financial Expert to spend the required man hours at the offices of the Authority and the Transaction Advisor agrees and undertakes to provide such services on a best effort basis and without any unreasonable delay.

### **1.9. Authorised Representatives**

- 1.9.1 Any action required or permitted to be taken, and any document required or permitted to be executed, under this Agreement by the Authority or the Transaction Advisor, as the case may be, may be taken or executed by the officials specified in this Clause 1.8.
- 1.9.2 The Authority may, from time to time, designate one of its officials as the Authority Representative. Unless otherwise notified, the Authority Representative shall be:

..... <Name>

..... <Designation>,

..... <OfficeAddress>

Tel: .....

Mobile: .....

E-mail: .....

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

..... <Name>

..... <Designation>,

..... <OfficeAddress>

Tel: .....

Mobile: .....

E-mail: .....

#### **1.10. Taxes and Duties**

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

#### **1.11. Intellectual Property Rights**

ITPO's name/logo/other IPRs shall be the sole and exclusive property of ITPO only. For any misuse/misrepresentation/unauthorized use of ITPO's name/logo/IPRs by the bidder and/or their sub-agents/sub-contractors/employees etc., the bidder shall be held solely responsible. ITPO shall not be responsible for any harm or loss caused to any third party because of any such misuse/misrepresentation/unauthorized use of ITPO's name/logo/IPRs. bidder shall indemnify ITPO against any misuse/misrepresentation/unauthorized use of ITPO's name/logo/IPRs and/or any claim(s) relating to infringement of any intellectual property rights committed by them/their sub-agents/sub-contractors/employees etc. ITPO shall take

necessary legal and other remedial actions, as deemed fit, for such violations.

### **1.12. Compliance with Statutory Laws**

All applicable laws (Central/State/Municipal/Local Laws etc.) including labour laws must be complied with/followed by the Transaction Advisor and its sub-consultants.

## **2. Commencement, Completion and Termination of Agreement**

### **2.1 Effectiveness of Agreement**

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

### **2.2 Commencement of Services**

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

### **2.3 Termination of Agreement for failure to commence Services.**

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

### **2.4 Expiry of Agreement**

Unless terminated earlier pursuant to Clauses 2.3 or 2.9 hereof, this Agreement shall, unless extended by the Parties by mutual consent, expire upon the earlier of (i) expiry of a period of 60 (sixty) days after the delivery of the final Deliverable to the Authority; and (ii) the expiry of [1 (one) year] from the Effective Date. Upon Termination, the Authority shall make payments of all amounts due to the Transaction Advisor hereunder.

## **2.5 Entire Agreement**

- 2.5.1 This Agreement and the Annexes together constitute a complete and exclusive statement of the terms of the agreement between the Parties on the subject hereof, and no amendment or modification hereto shall be valid and effective unless such modification or amendment is agreed to in writing by the Parties and duly executed by persons especially empowered in this behalf by the respective Parties. All prior written or oral understandings, offers or other communications of every kind pertaining to this Agreement are abrogated and withdrawn; provided, however, that the obligations of the Transaction Advisor arising out of the provisions of the RFP shall continue to subsist and shall be deemed to form part of this Agreement.
- 2.5.2 Without prejudice to the generality of the provisions of Clause 2.5.1 above, on matters not covered by this Agreement, the provisions of RFP shall apply.

## **2.6 Modification of Agreement**

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

## **2.7 Force Majeure**

- 2.7.1 If at any time, during the continuance of this Contract, the performance in whole or in part, by either party, of any obligation under this Contract is prevented or delayed, by reason of war, or hostility, acts of the public enemy, civic commotion, sabotage, act of State or direction from Governmental Authority, explosion, epidemic, pandemic, quarantine restriction, strikes and lockouts (as are not limited to the establishments and facilities of the Parties), fire, floods, natural calamities or any act of GOD (hereinafter referred to as “Event”), provided notice of happenings of any such Event is given by the affected party to the other, within 7 Calendar days from the date of occurrence thereof, neither Party shall, by

reason of such event, be entitled to terminate this Contract, nor shall either Party have any such claims for damages/compensation/costs/expenses against the other, in respect of such non-performance or delay in performance provided the Contract shall be resumed as soon as practicable, after such Event comes to an end or ceases to exist. The decision of the CMD, ITPO as to whether the service may be so resumed (and the time frame within which the service may be resumed) or not, shall be final and conclusive, provided further that if the performance in whole or part of any obligation under this Contract is prevented or delayed by reason of any such event for a period exceeding 30 days, either party may, at its option, terminate the Contract.

## **2.8 Suspension of Agreement**

The Authority may, by written notice of suspension to the Transaction Advisor, suspend all payments to the Transaction Advisor hereunder if the Transaction Advisor shall be in breach of this Agreement or shall fail to perform any of its obligations under this Agreement, including the carrying out of the Services; provided that such notice of suspension (i) shall specify the nature of the breach or failure, and (ii) shall provide an opportunity to the Transaction Advisor to remedy such breach or failure within a period not exceeding 15 (fifteen) days after receipt by the Transaction Advisor of such notice of suspension.

## **2.9 Termination of Agreement**

### **2.9.1 By the Authority**

The Authority, may, by not less than 15 (fifteen) days' written notice of termination to the Transaction Advisor, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.1, terminate this agreement:

- a) the Transaction Advisor fails to remedy any breach hereof or any failure in the performance of its obligations hereunder, as specified in a notice of suspension pursuant to Clause 2.8 hereinabove, within 15 (fifteen) days of receipt of such notice of suspension or within such further period as the Authority may have subsequently granted in writing;

- b) the Transaction Advisor becomes insolvent or bankrupt or enters into any agreement with its creditors for relief of debt or take advantage of any law for the benefit of debtors or goes into liquidation or receivership whether compulsory or voluntary.
- c) the Transaction Advisor fails to comply with any final decision reached as a result of arbitration proceedings pursuant to Clause 9 hereof;
- d) the Transaction Advisor submits to the Authority a statement which has a material effect on the rights, obligations or interests of the Authority and which the Transaction Advisor knows to be false;
- e) any document, information, data or statement submitted by the Transaction Advisor in its Proposals, based on which the Transaction Advisor was considered eligible or successful, is found to be false, incorrect or misleading.
- f) as the result of Force Majeure, the Transaction Advisor is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or
- g) the Authority, in its sole discretion and for any reason whatsoever, decides to terminate this Agreement.

#### 2.9.2 By The Transaction Advisor

The Transaction Advisor may, by not less than 30 (thirty) days' written notice to the Authority, such notice to be given after the occurrence of any of the events specified in this Clause 2.9.2, terminate this Agreement if:

- a) The Authority fails to pay any money due to the Transaction Advisor pursuant to this Agreement and not subject to dispute pursuant to Clause 9 hereof within 45 (forty-five) days after receiving written notice from the Transaction Advisor that such payment is overdue.
- b) The Authority is in material breach of its obligations pursuant to this Agreement and has not remedied the same within 45 (forty-five) days (or such longer period as the Transaction Advisor may have subsequently granted in writing) following the receipt by the Authority of the Transaction Advisor's notice specifying such breach;

- c) As the result of Force Majeure, the Transaction Advisor is unable to perform a material portion of the Services for a period of not less than 60 (sixty) days; or the Authority fails to comply with any final decision reached as a result of arbitration pursuant to Clause 9 hereof.

### 2.9.3 Cessation of Rights and Obligations

Upon termination of this Agreement pursuant to Clauses 2.3 or 2.9 hereof, or upon expiration of this Agreement pursuant to Clause 2.4 hereof, all rights and obligations of the Parties hereunder shall cease, except (i) such rights and obligations as may have accrued on the date of termination or expiration, or which expressly survives such Termination; (ii) the obligation of confidentiality set forth in Clause 3.3 hereof; (iii) the Transaction Advisor's obligation to permit inspection, copying and auditing of such of its accounts and records set forth in Clause 3.5, as relate to the Transaction Advisor's Services provided under this Agreement, and (iv) any right or remedy which a Party may have under this Agreement or the Applicable Laws.

### 2.9.4 Cessation of Services

Upon termination of this Agreement by notice of either Party to the other pursuant to Clauses 2.9.1 or 2.9.2 hereof, the Transaction Advisor shall, immediately upon dispatch or receipt of such notice, take all necessary steps to bring the Services to a close in a prompt and orderly manner and shall make every reasonable effort to keep expenditures for this purpose to a minimum. With respect to documents prepared by the Transaction Advisor and materials furnished by the Authority, the Transaction Advisor shall proceed as provided respectively by Clauses 3.8 or 3.9 hereof.

### 2.9.5 Payment upon Termination

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



- a) Remuneration pursuant to Clause 6 hereof for Services satisfactorily performed prior to the date of termination;
- b) Reimbursable expenditures pursuant to Clause 6 hereof for expenditures actually incurred prior to the date of termination; an
- c) Except in the case of termination pursuant to Sub-clauses (a) through (e) of Clause 2.9.1 hereof, reimbursement of any reasonable cost incidental to the prompt and orderly termination of the Agreement including the cost of the return travel of the Transaction Advisor's personnel.

#### 2.9.6 Disputes about Events of Termination

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

### **3. Obligations of the Transaction Advisor**

#### **3.1 General**

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

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

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

The scope of Services to be performed by the Transaction Advisor is specified in the Terms of Reference (the "TOR") in Section 4. The Transaction Advisor shall provide the Deliverables specified therein in conformity with the time schedule stated therein.

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

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

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

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

3.2.2 Transaction Advisor and Affiliates not to be otherwise interested in the Project.

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

### 3.2.3 Prohibition of conflicting activities

Neither the Transaction Advisor nor its Sub-Consultant nor the Personnel of either of them shall engage, either directly or indirectly, in any of the following activities:

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

### 3.2.4 Transaction Advisor not to benefit from commissions, discounts, etc.

The remuneration of the Transaction Advisor pursuant to Clause 6 hereof shall constitute the Transaction Advisor's sole remuneration in connection with this Agreement or the Services and the Transaction Advisor shall not accept for its own benefit any trade

commission, discount or similar payment in connection with activities pursuant to this Agreement or to the Services or in the discharge of its obligations hereunder, and the Transaction Advisor shall use its best efforts to ensure that any Sub-Consultant, as well as the Personnel and agents of either of them, similarly shall not receive any such additional remuneration.

3.2.5 The Transaction Advisor and its Personnel shall observe the highest standards of ethics and not have engaged in and shall not hereafter engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice, restrictive practice or anti-competitive practices (collectively the "Prohibited Practices"). Notwithstanding anything to the contrary contained in this Agreement, the Authority shall be entitled to terminate this Agreement forthwith by a communication in writing to the Transaction Advisor, without being liable in any manner whatsoever to the Transaction Advisor, if it determines that the Transaction Advisor has, directly or indirectly or through an agent, engaged in any Prohibited Practices in the Selection Process or before or after entering into of this Agreement. In such an event, the Authority shall forfeit and appropriate the Performance Security, if any, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to the Authority's any other rights or remedy hereunder or in law.

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

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

- a) "corrupt practice" means the offering, giving, receiving or soliciting, directly or indirectly, of anything of value to influence

the actions of any person connected with the Selection Process (for removal of doubt, offering of employment or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly with Selection Process or LOA or dealing with matters concerning the Agreement before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Selection Process); or (ii) engaging in any manner whatsoever, whether during the Selection Process or after the issue of LOA or after the execution of the Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Agreement, who at any time has been or is a legal, financial or technical advisor the Authority in relation to any matter concerning the Project;

- b) "fraudulent practice" means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Selection Process;
- c) "coercive practice" means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person's participation or action in the Selection Process or the exercise of its rights or performance of its obligations by the Authority under this Agreement;
- d) "undesirable practice" means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Selection Process; or (ii) having a Conflict of Interest; and
- e) "restrictive practice" means forming a cartel or arriving at any understanding or arrangement among Applicants with the objective of restricting or manipulating a full and fair competition in the Selection Process.
- f) "Anti-competitive practice" mean any collusion, bid rigging or anti- competitive arrangement, or any other practice coming under the purview of The Competition Act, 2002, between two or more bidders, with or without the knowledge of the Authority,

that may impair the transparency, fairness and the progress of the procurement process or to establish bid prices at artificial, non-competitive levels.

- g) "Obstructive practice" materially impede the Authority's investigation into allegations of one or more of the above mentioned prohibited practices either by deliberately destroying, falsifying, altering; or by concealing of evidence material to the investigation; or by making false statements to investigators and/or by threatening, harassing or intimidating any party to prevent it from disclosing its knowledge of matters relevant to the investigation or from pursuing the investigation; or by impeding the Authority's rights of audit or access to information.

### **3.3 Confidentiality**

3.3.1 The Transaction Advisor, its Sub-Consultants and the Personnel of either of them shall maintain high level of professional ethics and shall not act in any manner, which is contrary to any laws and/or detrimental to ITPO's interest. The bidder shall treat as confidential any and all data, information and records, obtained/received in the performance/execution of its responsibilities, in strict confidence and shall not reveal such data, information or records to any other person/party without the prior written approval of the ITPO, even after expiry/termination/determination of the Contract. ITPO shall take necessary legal and other remedial actions for infringement of this clause.

3.3.2 The Transaction Advisor, its Sub-Consultants and the Personnel of either of them shall not, either during the term or within two years after the expiration or termination of this Agreement disclose any proprietary information, including information relating to reports, data, drawings, design software or other material, whether written or oral, in electronic or magnetic format, and the contents thereof; and any reports, digests or summaries created or derived from any of the foregoing that is provided by the Authority to the Transaction Advisor, its Sub- Consultants and the Personnel; any information provided by or relating to the Authority, its technology, technical processes, business affairs or finances or any information relating to the Authority's employees, officers or other professionals or suppliers, customers, or contractors of the Authority; and any other information which the Transaction Advisor is under an obligation to keep confidential in relation to the Project, the Services or this

Agreement ("Confidential Information"), without the prior written consent of the Authority.

Notwithstanding the aforesaid, the Transaction Advisor, its Sub-Consultants and the Personnel of either of them may disclose Confidential Information to the extent that such Confidential Information:

- a) was in the public domain prior to its delivery to the Transaction Advisor, its Sub- Transaction Advisors and the Personnel of either of them or becomes a part of the public knowledge from a source other than the Transaction Advisor, its Sub- Consultant and the Personnel of either of them;
- b) was obtained from a third party with no known duty to maintain its confidentiality;
- c) is required to be disclosed by Applicable Laws or judicial or administrative or arbitral process or by any governmental instrumentalities, provided that for any such disclosure, the Transaction Advisor, its Sub-Consultant and the Personnel of either of them shall give the Authority, prompt written notice, and use reasonable efforts to ensure that such disclosure is accorded confidential treatment; and
- d) is provided to the professional advisors, agents, auditors or representatives of the Transaction Advisor or its Sub-Transaction Advisors or Personnel of either of them, as is reasonable under the circumstances; provided, however, that the Transaction Advisor or its Sub- Consultant or Personnel of either of them, as the case may be, shall require their professional advisors, agents, auditors or its representatives, to undertake in writing to keep such Confidential Information, confidential and shall use its best efforts to ensure compliance with such undertaking.

### **3.4 Liability of the Transaction Advisor**

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

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

3.4.3 The Parties here to agree that in case of negligence or willful misconduct on the part of the Transaction Advisor or on the part of any person or firm acting on behalf of the Transaction Advisor in carrying out the Services, the Transaction Advisor, with respect to damage caused to the Authority's property, shall not be liable to the Authority:

- a) for any indirect or consequential loss or damage; and
- b) for any direct loss or damage that exceeds (a) the Agreement Value set forth in Clause of this Agreement, or (b) the proceeds the Transaction Advisor may be entitled to receive from any insurance maintained by the Transaction Advisor to cover such a liability, whichever of (a) or (b) is higher.

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

### **3.5 Accounting, Inspection, and Auditing**

The Transaction Advisor Shall:

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



### **3.6 Transaction Advisor's Actions Requiring the Authority's prior approval**

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

- a) Appointing such members of the professional personnel as are not listed in Annexure 9;
- b) entering into a subcontract for the performance of any part of the Services, it being understood (i) that the selection of the Sub-Transaction Advisor and the terms and conditions of the subcontract shall have been approved in writing by the Authority prior to the execution of the subcontract, and (ii) that the Transaction Advisor shall remain fully liable for the performance of the Services by the Sub-Transaction Advisor and its Personnel pursuant to this Agreement; or
- c) any other action that is specified in this Agreement.

### **3.7 Reporting Obligations**

3.7.1 The Transaction Advisor shall submit to the Authority the reports and documents specified in the Agreement, in the form, in the numbers and within the time periods set forth therein.

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

### **3.8 Documents Prepared by the Transaction Advisor to be property of the Authority.**

3.8.1 All reports and other documents (collectively referred to as "Consultancy Documents") prepared by the Transaction Advisor (or by the Sub-Consultant or any Third Party) in performing the Services shall become and remain the property of the Authority, and all intellectual property rights in such Consultancy Documents shall vest with the Authority. Any Consultancy Document, of which the

ownership or the intellectual property rights do not vest with the Authority under law, shall automatically stand assigned to the Authority as and when such Consultancy Document is created, and the Transaction Advisor agrees to execute all papers and to perform such other acts as the Authority may deem necessary to secure its rights herein assigned by the Transaction Advisor

3.8.2 The Transaction Advisor shall, not later than termination or expiration of this Agreement, deliver all Consultancy Documents to the Authority, together with a detailed inventory thereof. The Transaction Advisor may retain a copy of such Consultancy Documents. The Transaction Advisor, its Sub-Consultant or a Third Party shall not use these Consultancy Documents for purposes unrelated to this Agreement without the prior written approval of the Authority.

3.8.3 The Transaction Advisor shall hold the Authority harmless and indemnified for any losses, claims, damages, expenses (including all legal expenses), awards, penalties or injuries (collectively referred to as "Claims") which may arise from or due to any unauthorised use of such Consultancy Documents, or due to any breach or failure on part of the Transaction Advisor or its Sub-Consultant or a Third Party to perform any of its duties or obligations in relation to securing the aforementioned rights of the Authority.

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

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

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

The Transaction Advisor shall ensure that the Authority, and officials of the Authority having authorisation from the Authority, are provided unrestricted access to the office of the Transaction Advisor and to all Personnel during office hours. The Authority's official, who has been authorised by the Authority in this behalf, shall have the right to inspect the Services in progress, interact with Personnel of the Transaction

Advisor and verify the records relating to the Services for his satisfaction.

### **3.11 Accuracy of Documents**

The Transaction Advisor shall be responsible for accuracy of the documents drafted and/ or vetted and data collected by it directly or procured from other agencies/authorities, estimates and all other details prepared by it as part of these services. Subject to the provisions of Clause 3.4, it shall indemnify the Authority against any inaccuracy in its work which might surface during implementation of the Project, if such inaccuracy is the result of any negligence or inadequate due diligence on part of the Transaction Advisor or arises out of its failure to conform to good industry practice. The Transaction Advisor shall also be responsible for promptly correcting, at its own cost and risk, the documents including any re-survey I investigations.

## **4. Transaction Advisor's Personnel and Sub-Consultant**

### **4.1 General**

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

### **4.2 Deployment of Personnel**

4.2.1 The designations, names, and other particulars of each of the Transaction Advisor's Key Personnel required in carrying out the Services are described in Annexure 9 of this Agreement. The estimate of Personnel costs and man day rates are specified in Annexure 6 of this Agreement.

4.2.2 Adjustments with respect to the estimated periods of engagement of Personnel set forth in the aforementioned Annexure 9 may be made by the Transaction Advisor by written notice to the Authority, provided that (i) such adjustments shall not alter the originally estimated period of engagement of any individual by more than 30% (thirty per cent), and (ii) the aggregate of such adjustments shall not cause payments under the Agreement to exceed the Agreement Value set forth in Clause 6.1.2 of this Agreement by more than 25% (twenty five per cent) thereof.

Any other adjustments shall only be made with the written approval of the Authority.

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

### **4.3 Approval of Personnel**

- 4.3.1. The Key Personnel listed in Annexure 9 of the Agreement are hereby approved by the Authority. No other Key Personnel shall be engaged without prior approval of the Authority.
- 4.3.2. If the Transaction Advisor hereafter proposes to engage any person as Professional Personnel, it shall submit to the Authority its proposal along with a CV of such person in the form provided at Annexure-10 of this RFP. The Authority may approve or reject such proposal within 14 (fourteen) days of receipt thereof. In case the proposal is rejected, the Transaction Advisor may propose an alternative person for the Authority's consideration. In the event the Authority does not reject a proposal within 14 (fourteen) days of the date of receipt thereof under this Clause 4.3, it shall be deemed to have been approved by the Authority.

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

The Authority expects all the Key Personnel specified in the Proposal to be available during implementation of the Agreement. The Authority will not consider any substitution of Key Personnel except under compelling circumstances beyond the control of the Transaction Advisor and the concerned Key Personnel. Such substitution shall be limited to not more than two Key Personnel subject to equally or better qualified and experienced personnel being provided to the satisfaction of the Authority. Without prejudice to the foregoing, substitution of the Financial Expert shall be permitted only upon reduction of remuneration equal to 20% (twenty per cent) of the total remuneration specified for the Key Personnel who is proposed to be substituted.

#### **4.5 Working Hours, Overtime, Leave, etc.**

The Personnel shall not be entitled to be paid for overtime nor to take paid sick leave or vacation leave except as specified in the Agreement, and the Transaction Advisor's remuneration shall be deemed to cover these items. All leave to be allowed to the Personnel is excluded from the man days of service set forth in Annexure 9. Any taking of leave by any Personnel for a period exceeding 7 days shall be subject to the prior approval of the Authority, and the Transaction Advisor shall ensure that any absence on leave will not delay the progress and quality of the Services.

#### **4.6 Financial Expert and Project Manager**

The person designated as the Financial Expert of the Transaction Advisor's Personnel shall be responsible for the coordinated, timely and efficient functioning of the Personnel. In addition, the Transaction Advisor shall designate a suitable person as Project Manager (the "Project Manager") who shall be responsible for day-to-day performance of the Services.

#### **4.7 Sub-Consultant**

Sub-Consultant listed in Annexure 11 of this Agreement are hereby approved by the Authority. The Transaction Advisor may, with prior written approval of the Authority, engage additional Sub-Consultant or substitute an existing Sub-Consultant. The hiring of Personnel by the Sub-Consultant shall be subject to the same conditions as applicable to Personnel of the Transaction Advisor under this Clause 4.

### **5. Obligations of the Authority**

#### **5.1 Assistance in Clearances etc.**

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

- a) provide the Transaction Advisor, its Sub-Consultant and Personnel with work permits and such other documents as may be necessary to enable the Transaction Advisor, its Sub-Consultant or Personnel to perform the Services;

- b) facilitate prompt clearance through customs of any property required for the Services; and
- c) issue to officials, agents and representatives of the Government all such instructions as may be necessary or appropriate for the prompt and effective implementation of the Services.

## **5.2 Access to Land and Property**

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

## **5.3 Change in Applicable Law**

If, after the date of this Agreement, there is any change in the Applicable Laws with respect to taxes and duties which increases or decreases the cost or reimbursable expenses incurred by the Transaction Advisor in performing the Services, by an amount exceeding 2% (two per cent) of the Agreement Value specified in Clause 6.1.2, then the remuneration and reimbursable expenses otherwise payable to the Transaction Advisor under this Agreement shall be increased or decreased accordingly by agreement between the Parties hereto, and corresponding adjustments shall be made to the aforesaid Agreement Value.

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

## **5.4 Payment**

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

## **6. Payment of the Transaction Advisor**

### **6.1 Cost Estimates and Agreement Value**

- 6.1.1 An abstract of the cost of the Services payable to the Transaction Advisor is set forth in Annexure 5.
- 6.1.2 Except as may be otherwise agreed under Clause 2.6 and subject to Clauses 4.2.2 and 6.1.3, the payments under this Agreement shall not exceed the agreement value specified herein (the "Agreement Value"). The Parties agree that the Agreement Value is ..... (Rupees), which does not include the Additional Costs specified in Annex-4 (the "Additional Costs").
- 6.1.3 Notwithstanding anything to the contrary contained in Clause 6.1.2, if pursuant to the provisions of Clause 2.6 , the Parties agree that additional payments shall be made to the Transaction Advisor in order to cover any additional expenditures not envisaged in the cost estimates referred to in Clause 6.1.1 above, the Agreement Value set forth in Clause 6.1.2 above shall be increased by the amount or amounts, as the case may be, of any such additional payments.

### **6.2 Currency of Payment**

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

### **6.3 Mode of billing and payment**

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

- a) The Transaction Advisor shall be paid for its services as per the Payment Schedule at Section 4.7 of the TOR, and the rates specified in Annexure 6 of this Agreement, subject to the Transaction Advisor fulfilling the following conditions:
  - (i) No payment shall be due for the next stage till the Transaction Advisor completes to the satisfaction of the Authority the work pertaining to the preceding stage.
  - (ii) The Authority shall pay to the Transaction Advisor, only the undisputed amount.



- (iii) The Authority shall cause the payment due to the Transaction Advisor to be made within 30 (thirty) days after the receipt by the Authority of duly completed bills with necessary particulars (the "Due Date"). Interest at the rate of 10% (ten per cent) per annum shall become payable by the Authority as from the Due Date on any amount due by, but not paid on or before, such Due Date.
- (iv) The final payment under this Clause 6.3 shall be made only after the final Deliverable shall have been submitted by the Transaction Advisor and approved as satisfactory by the Authority. The Services shall be deemed completed and finally accepted by the Authority and the final Deliverable shall be deemed approved by the Authority as satisfactory upon expiry of 60 (sixty) days after receipt of the final Deliverable unless the Authority, within such 60 (sixty) day period, gives written notice to the Transaction Advisor specifying in detail, the deficiencies in the Services. The Transaction Advisor shall thereupon promptly make any necessary corrections and/or additions, and upon completion of such corrections or additions, the foregoing process shall be repeated. The Authority shall make the final payment upon acceptance or deemed acceptance of the final Deliverable by the Authority.
- (v) Any amount which the Authority has paid or caused to be paid in excess of the amounts actually payable in accordance with the provisions of this Agreement shall be reimbursed by the Transaction Advisor to the Authority within 30 (thirty) days after receipt by the Transaction Advisor of notice thereof. Any such claim by the Authority for reimbursement must be made within 1 (one) year after receipt by the Authority of a final report in accordance with Clause 6.3. Any delay by the Transaction Advisor in reimbursement by the due date shall attract simple interest @10% (ten per cent) per annum.
- (vi) All payments under this Agreement shall be made to the account of the Transaction Advisor as may be notified to the Authority by the Transaction Advisor

## **7. Liquidated Damages and Penalties**

### **7.1 Performance Security**

- 7.1.1 For the purposes of this Agreement, performance security shall be deemed to be an amount equal to 10% (ten percent) of the Agreement



Value (the "Performance Security"); provided, however, that the Transaction Advisor shall not be required to provide a Performance Security in the form of a bank guarantee or cash deposit.

7.1.2 Notwithstanding anything to the contrary contained in Clause 7.1.1, as and when payments become due to the Transaction Advisor for its Services, the Authority shall retain by way of Performance Security, 10% (ten percent) of all the amounts due and payable to the Transaction Advisor, to be appropriated against breach of this Agreement or for recovery of liquidated damages as specified in clause.

7.1.3 The balance remaining out of the Performance Security shall be returned to the Transaction Advisor at the end of three months after the expiry of this Agreement pursuant to Clause 2.4 hereof. For the avoidance of doubt, the parties hereto expressly agree that in addition to appropriation of the amounts withheld hereunder, in the event of any default requiring the appropriation of further amounts comprising the Performance Security, the Authority may make deductions from any subsequent payments due and payable to the Financial Transaction Advisor hereunder, as if it is appropriating the Performance Security in accordance with the provisions of this Agreement.

7.1.4 The Transaction Advisor may, in lieu of retention of the amounts as referred to in Clause 7.1.2 above, furnish a Bank Guarantee substantially in the form specified at Annexure 12 of this Agreement.

## **7.2 Liquidated Damages**

### **7.2.1 Liquidated Damages for error /variation**

In case any error or variation is detected in the reports submitted by the Transaction Advisor and such error or variation is the result of negligence or lack of due diligence on the part of the Transaction Advisor, the consequential damages thereof shall be quantified by the Authority in a reasonable manner and recovered from the Transaction Advisor by way of deemed liquidated damages, subject to a maximum of the Agreement Value.

### **7.2.2 Liquidated Damages for Delay**

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

### 7.2.3 Encashment and appropriation of Performance Security

The Authority shall have the right to invoke and appropriate the proceeds of the Performance Security, in whole or in part, without notice to the Transaction Advisor in the event of breach of this Agreement or for recovery of liquidated damages specified in this Clause 7.2.

## **7.3 Penalty for deficiency in Services**

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

## **8. Fairness and Good Faith**

### **8.1 Good Faith**

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

### **8.2 Operation of the Agreement**

The Parties recognise that it is impractical in this Agreement to provide for every contingency which may arise during the life of the Agreement, and the Parties hereby agree that it is their intention that this Agreement shall operate fairly as between them, and without detriment to the interest of either of them, and that, if during the term of this Agreement either Party believes that this Agreement is operating unfairly, the Parties will use their best efforts to agree on such action as may be necessary to remove the

cause or causes of such unfairness, but failure to agree on any action pursuant to this Clause 8.2 shall not give rise to a dispute subject to arbitration in accordance with Clause 9 hereof.

## **9. Settlement of Disputes**

### **9.1 Arbitration**

- 9.1.1 In case of any dispute, both the parties shall make all efforts to resolve by way of conciliation process. In the event any doubt, dispute or difference arising out of or in relation to the Contract remains unresolved, both the parties to the Contract will mutually appoint a Sole Arbitrator, in accordance with the Arbitration and Conciliation Act 1996.
- 9.1.2 The provisions of Arbitration & Conciliation Act, 1996 (as amended from time to time) shall apply to both the parties.
- 9.1.3 The fee payable to the Arbitrator shall be paid equally by both the parties. The language used in the arbitral proceedings shall be English.
- 9.1.4 The venue of the arbitration proceedings shall be the Office of ITPO, i.e. Pragati Maidan, New Delhi.

### **9.2 Jurisdiction**

- 9.2.1 All disputes arising out of and in relation to the contract between the parties herein shall be governed by Laws of India subject to the exclusive jurisdiction of the courts of Delhi only.

### **9.3 Indemnity**

- 9.3.1 The Transaction Advisor shall indemnify, defend and hold ITPO and its officers/officials harmless against any and all proceedings, actions, losses, damages, expenses, costs and third party claims whatsoever – whether financial or otherwise, including liability for payment of contributions/dues to EPFO/ESIC/Govt. Departments/Local Bodies/Statutory Authorities etc. which ITPO may sustain, incur,

suffer or be exposed to at any time during the subsistence of the Contract and subsequent thereto relating to the period of Contract, arising out of a breach by the Successful Bidder, its sub-contractors, sub-agents, employees, etc. of any of its obligations under the Contract

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

Signed, Sealed and Delivered  
For and on behalf of Transaction  
Advisor  
(Signature)  
(Name)  
(Designation)  
(Address)  
In the presence of:  
1. \_\_\_\_\_

Signed, Sealed and Delivered  
For and on behalf of Authority  
(Signature)  
(Name)  
(Designation)  
(Address)  
2. \_\_\_\_\_

## Annexure 2 Letter of Award to Successful Transaction Advisor

<<Letter Head of Company>>

Subject: Appointment of Transaction Advisor for <Name of Project>

Reference: Your Proposal Against Tender <No.> dated <dd/mm/yyyy>

Sir/Madam,

- I. Subsequent to the Submission of your bid against the reference cited above and having qualified in the selection of Transaction Advisor for the <Name of Project> , the approval of the competent authority is hereby conveyed through this LoA with project fee in Rs..... (<amount in words>) (inclusive of taxes)
- II. The Letter of Award (LoA) is sent herewith in duplicate along with the copy of the Contract Agreement, You are requested to return one copy of the LoA duly accepted and signed by the Authorized signatory within 07 (seven) days of the issue of this LoA
- III. The Performance Security of Rs ..... (<Amount in Words>) to be submitted to ITPO at Address xxxx within 07 days of the issue of this LoA.
- IV. Furthermore, you shall execute the Contract Agreement confirming the acceptance to the Terms & Conditions of the RFP document.
- V. It may be further noted that until formal contract agreement is executed, this LoA will constitute a binding contract between <Name of TA> and ITPO.
- VI. The Scope of work, other terms and condition as covered in the tender document as well its subsequent amendments through corrigendum also form part of this LoA.

Your Faithfully,  
<Signature of Officer>

<Name of Officer>  
<Designation>  
<Stamp & Seal>

LoA Accepted  
<Signature of Authorised  
Signatory>  
<Designation>  
<Name of Firm & Seal>  
<Name of Firm & Seal>

### Annexure 3 Eligible Assignments of Applicant

<To be submitted on letterhead of responding firm>

(Date and Reference)

To,

<Name and Assignment>

<ol style="list-style-type: none"><li>1. Name of the Applicant:</li><li>2. Category for which Eligible Assignment submitted</li><li>3. Name of the Project:</li><li>4. Type of Project</li><li>5. Project Specifications</li><li>6. Description of services performed by the applicant</li><li>7. Name of client and Address:</li><li>8. Name, Telephone no. of client's representative:</li><li>9. Estimated capital cost of Project (In Rs. Cr. Or US\$ million):</li><li>10. Payment received by the Applicant as professional fees (in Rs. Crore)</li><li>11. Start date of the services (month/year):</li><li>12. Finish date of the services (month/year):</li><li>13. Brief description of the project: Notes: Use separate sheet for each Eligible Assignment</li></ol>	<p>Experience of undertaking PPP projects in &lt;named sector&gt;</p>
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## Annexure 4 Financial Letter

<Covering Letter (On Applicant's letter head)>

(Date and Reference)

To,

*Dear Sir,*

*Subject: Appointment of Transaction Advisor for Financial [and Transaction] Advisory Services for*

*..... Project.*

*I/ We, (Applicant's name) herewith enclose the Financial Proposal for selection of my/our firm as Transaction Advisor for Financial [and Transaction] Advisory Services for above.*

*I/ We agree that this offer shall remain valid for a period of 75 (seventy-five) days from the Proposal Due Date or such further period as may be mutually agreed upon.*

*Yours faithfully,*

*(Signature, name and designation of the authorised signatory)*

## Annexure 5 Financial Proposal

S.No	Description	Amount in Words (INR)	Amount in Figures (NR)
1.	Pre-Feasibility Cost		
2.	End to End Transaction Advisory Cost		
3.	Total Financial Quote excluding GST		
	Total		

Note:

1. The financial evaluation shall be based on the Total Financial Bid (as at Sr. No. 3 of the table above)
2. All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws, withholding taxes if any.
3. For the avoidance of doubt, it is clarified that all taxes, excluding GST, shall be deemed to be included in the cost shown under different items of Financial Proposal.
4. The Bidder shall be paid only GST over and above the cost of Financial Proposal. Further, all payments shall be subjected to deduction of taxes at source as per applicable laws.

Signature, name, and designation of the Authorized Signatory Name of Firm:

Address:





## Annexure 6 Estimates of Personnel Cost

S.No	Name of Personnel	Position	Man-Month Rate (Rs)	Time in Months	Total Amount (Rs)
1.					
2.					
3.					
	<b>Total</b>				

Note:

All payments shall be made in Indian Rupees and shall be subject to applicable Indian laws, withholding taxes if any.

Signature, name, and designation of the Authorized Signatory Name of Firm: Address:

## Annexure 7 Complete Certificate

«Letter Head of Company»

This is to inform that <Name of Transaction Advisor/Transaction Advisor> has assisted the company to provide< type of services> for<Name of project>. The assignment was for a period of<number of months> start w.e.f from<Start Date of Assignment>

S.No	References	Project Details	
1.	RFP Reference		
2.	Project Title		
3.	Location		
4.	Scope of Work		
5.	Fee (Including Taxes)		
6.	Engagement Period	From	To
7.	Current Status		

The scope of work assigned to the<Name of Transaction Advisor> are as follows:

- 1.
- 2.
- 3.

S.No	Milestones	Completion Remarks
1.		
2.		
3.		
4.		
5.		

<Name of Transaction Advisor> performance has been found to be satisfactory with respect to services provided in relation to the above listed scope under this assignment.

<Signature of Officer>

<Name of Officer>

<Designation>

<Stamp &. Seal>

Note: ITPO may suitably modify the contents of provided under this format to reflect the milestone achieved under the assignment/project and the performance of the transaction advisor.

## Annexure 8 Feedback Form/Survey of Performance Transaction Advisors on an Assignment

«Letter Head of Company»

Transaction Advisor Details	
Name of the Organisation	
Name	
Role	
Contact (Tele/E-Mail/Fax)	

Engagement Details	
RFP Reference	<<Reference ID of the RFP>>
Client Name	<<Client Name>>
Name of Customer	<<Insert Client name as per Contract>>
Supplier	<<Name of the entity>>
Contract Title	<<Name of the Project as per Contract>>
Total Project Outlay	<<Total Cost of Implementation>>
Period of Engagement	From <input style="width: 100px;" type="text"/> To <input style="width: 100px;" type="text"/>
Description of Services	
Engagement Fee	<<Including GST>>
Engagement Partner	

Aspects of Engagement	Exceptional	Satisfactory	Needs Improvement	Please Provide Justification
	Indicate by (Tick) as applicable			
<b>Project Management</b>				
a) Approach to Assignment				
b) Responsive to client's needs (willingness to put in the effort required to complete the project)				
c) Adherence to deadlines				
<b>Technical Skills</b>				
a) Requisite Knowledge, understanding of business / process				

Aspects of Engagement	Exceptional	Satisfactory	Needs Improvement	Please Provide Justification
	Indicate by (Tick) as applicable			
<b>Project Management</b>				
and skills needed to effectively perform engagement				
b) Communication and Reporting Skills				
c) Ability to Identify the main issues during the engagement (i.e. , analyze information, identify problem areas / issues, identify alternative resolutions, document work accurately)				
d) Responsiveness and approachability (response to constructive feedback, Willing to change, easy to approach)				
<b>Deliverable</b>				
a) Quality of the work product / deliverable,				
b) Relevance of recommendations/insights provided (were they constructive, creative, accurate and actionable?)				

Overall Rating	Exceptional	Satisfactory	Needs Improvement
(Please tick into the appropriate box)			

Additional Inputs / comments

<Signature of Office>

<Name of Officer>

<Designation>

<Stamp & Seal>

Note:

- (1) Exceptional Category may be ascertained that a score of  $\geq 80\%$  (from 100%) or score of 4-5 (on a 5-point scale)
- (2) Satisfactory category may be ascertained that a score of 60 to 80% (from 100%) or a score of 2-3 (on a 5-point scale)
- (3) Needs Improvement category may be ascertained that a score of  $>60\%$  (from 100%) or a score of 0-1 (on a 5-point scale)

## Annexure 9 Particulars of Key Personnel

S.No	Designation of Key Personnel	Name	Educational Qualification	Length of Professional Experience	Present Employment		No. of Eligible Assignments
					Name of Firm	Employed Since	
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)
1.	Team Leader						
2.	Financial Expert						
3.	Civil Engineer						
4.	Legal Expert						

Refer Annexure 3 Eligible Assignments of Key Personnel



## **Annexure 10 Curriculum Vitae (CV) of Professional Personnel**

1. Proposed Position:
2. Name of Personnel:
3. Date of Birth:
4. Nationality:
5. Educational Qualifications:
6. Employment Record:

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

7. List of projects on which the Personnel has worked.

Name of Project of responsibilities	Description
--	-------------

Certification:

- a) I am willing to work on the Project and I will be available for the entire duration of the Project assignment as required.
- b) I, the undersigned, certify that to the best of my knowledge and belief, this CV correctly describes my qualifications, my experience and me.

(Signature and name of the Professional  
Personnel)

Place.....

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

Notes:

1. Use separate form for each Key Personnel and Professional Personnel.

2. In the case of Financial Expert, only those assignments shall be included where the Financial Expert worked as the Team Leader or the leader of the Financial Team in the relevant assignment.
4. Each page of the CV shall be signed in ink by both the Personnel concerned and by the Authorised Representative of the Applicant firm along with the seal of the firm. Photocopies will not be considered for evaluation.

1. Details of the Firm
Firm's Name, Address and Telephone
Name and Telephone No. of the Contact Person
Fields of Expertise
No. of Years in business in the above Fields
2. Services that are proposed to be subcontracted:
3. Person who will lead the Sub-Consultant Name: Designation: Telephone No: Email:

## Annexure 11 Proposal for Sub-Consultant(s)

Details of Firm's previous experience

Name of Work	Name, address, and telephone no. of client	Total Value of Services Performed	Duration of Services	Date of Completion of Services
1.				
2.				
3.				

(Signature and name of the authorised signatory)

Note:

1. The Proposal for Sub-Consultant may be accompanied by the details pertaining to assignments.
2. Use separate form for Sub-Consultant

## **Annexure 12 Bank Guarantee for Performance Security**

To,

India Trade Promotion Organisation,

Ministry of Commerce and Industry, Govt. of India

Pragati Maidan, New Delhi

Pin – 110001

In consideration of the India Trade Promotion Organisation (herein called the “Authority”) having to enter into an Agreement with M/s..... (herein called the “Transaction Advisor”) as a follow up to the Letter of Award no..... dated..... Issued by the Authority for **“SELECTION OF TRANSACTION ADVISOR FROM THE EMPANELLED TAs OF DEPARTMENT OF ECONOMIC AFFAIRS FOR SELECTION OF DEVELOPER CUM OPERATOR OF HOTEL PROJECT AT BHARAT MANDAPAM, NEW DELHI”** on production of Performance security in the form of Bank Guarantee for INR ..... (Rupees.....only), at the request of ..... Consultant, We, (Bank) do hereby undertake to pay the Authority an amount not exceeding INR..... (Rupees ..... Only) against any default or failure on the part of the Transaction Advisor to perform the contract in accordance with the terms & conditions or any breach of the said Agreement.

1. We, (Bank) do hereby undertake to pay the amount due and payable under this Guarantee without any demur, merely on a demand from the Authority stating the amount claimed is due by way of loss or damage caused to or would be caused to or suffered by the Authority by reason of breach by the said Transaction Advisor or any of the terms conditions contained in the said timeframe or by reason of the Consultant’s failure to perform the said Agreement. Any such demand made on the Bank shall be conclusive as regards the amount due and payable by the Bank under this guarantee. However, our liability under this guarantee shall be restricted to an amount not exceeding INR..... (Rupees only).
2. We, (Bank) undertake to pay the Employer any money so demanded notwithstanding any dispute or disputes raised by the Transaction Advisor in any suit or proceeding pending before any court or Tribunal relating thereto, liability under this present being absolute unequivocal. The payment so made by us under this guarantee shall be valid discharge of our liability for payment there under and the Transaction Advisor shall have no claim against us for making such payment.

3. We, (Bank) further agree that the Guarantee herein contained shall remain full force and effect till completion of project work to the complete satisfaction of the Authority in terms of conditions of contract and Letter of Award (LoA) and that it shall continue to be enforceable till all the dues of the Employer under or by virtue of the said Agreement have been fulfilled and its claim satisfied or till the scheduled date of completion of Works as per the Agreement. We (Bank) shall consider that the terms and conditions of the said Agreement have been fully and properly carried out by the said Transaction Advisor and accordingly discharge this Guarantee after 90 days from the date of completion of the said contract unless a demand or claim under this Guarantee is served by the Authority in writing on the bank but before the expiry of the said period in which case it shall be enforceable against the bank notwithstanding the fact that same is enforced after the expiry of the said period or after the extended period as the case may be.
  
4. We, (Bank) further agree with the Authority that the Authority shall have fullest liberty without our consent and without affecting in any manner our obligations hereunder to vary any of the terms and conditions of the said Agreement or to extend time or performance by the said Transaction Advisor from time to time or to postpone for any time or from time to time any of the powers exercisable by the Employer against the said Consultant and to forbear or enforce any of the terms and conditions relating to the said Agreement and we shall not be relieved from our liability by reason of any such variation or extension being granted to the said Transaction Advisor or for any forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Transaction Advisor or by any such matter or thing whatsoever which under the law relating to sureties would, but for the provision, have effect of so relieving us.
  
5. It shall not be necessary for the Employer to proceed against the Transaction Advisor before proceeding against the Bank and the guarantee herein contained shall be enforceable against the bank notwithstanding any security which the Authority may have obtained or obtain from the Transaction Advisor at the time when proceedings are taken against the bank hereunder be outstanding unrealized.
  
6. Notwithstanding anything contained herein above our liability under the guarantee is restricted to INR ..... (Rupees..... Only) and shall remain in force until ..... or otherwise until the extended date by the Employer. Unless a claim or suit under this guarantee is filed with us on or before the extended date ..... ALL OUR RIGHTS

UNDER THE GUARANTEE SHALL BE FORFEITED and the bank shall be relieved and discharged from all liabilities therein.

7. This Guarantee will not be discharged even if there is a change in the constitution of the Bank or the Consultant.
8. We, (Bank) lastly undertake not to revoke this Guarantee during its currency except with the previous consent of the Employer in writing.

Dated the ..... of..... 2024

For.....

(Indicate the name of bank)

Signature.....

Name of the Officer .....

(In Block Capitals)

Designation

Code No.....

Name of the bank and Branch

(SEAL)

## Annexure 13 Technical Evaluation Marking Scheme

### Scoring Criteria for Key Personnel

Key Personnel	Minimum Educational Qualification	Minimum Experience and Eligible Assignments	Marks		
1. Team Leader	MBA/ CA/ CFA/MCA	<p>He / She should have a minimum total experience of 12 years and experience in transaction advisory services of at least 5 (five) Eligible Assignments.</p> <p>Eligible Assignment: Assignments with a project value <math>\geq</math> Rs. 3 Cr. in India covering satisfying the following condition:</p> <ul style="list-style-type: none"> <li>Completed an assignment in PPP mode in Real Estate</li> </ul>	<b>Total Marks: 15</b>		
			<b>Criteria</b>	<b>Scoring Pattern</b>	<b>Maximum Marks</b>
			Total Work Experience	12-14 Years: 4 Marks  Greater than 14 Years: 7 Marks	7 Marks
			Number of Eligible Assignments	5-6 Assignments: 5 Marks  Greater than 6 Assignments: 8	8 Marks

Key Personnel	Minimum Educational Qualification	Minimum Experience and Eligible Assignments	Marks		
		Sector in the last 07 years. <ul style="list-style-type: none"> <li>Strategy with Govt. Authority, Centre, or State / or their agencies / PPP in India.</li> </ul>		Marks	
			<b>Total</b>		<b>15</b>
2. Finance Expert	MBA/ CA/ CFA	He / She should have minimum total experience of 7 years' experience and worked as a Finance expert in at least 3 (three) Eligible Assignments with experience of financial modelling.  Eligible Assignment: Assignments with a project value >= Rs. 3 Cr. in India satisfying the following condition: <ul style="list-style-type: none"> <li>Having conducted Financial</li> </ul>	<b>Total Marks: 9</b>		
			<b>Criteria</b>	<b>Scoring Pattern</b>	<b>Maximum Marks</b>
			Total Work Experience	7-10 Years: 1 Marks  Greater than 10 Years: 3 Marks	3 Marks
			Number of Eligible Assignments	3-4 Assignments: 2 Marks  Greater than 4 Assignments: 4 Marks	4 Marks



Key Personnel	Minimum Educational Qualification	Minimum Experience and Eligible Assignments	Marks		
		Assessment, due diligence, and financial modeling for projects in the Real Estate Sector in PPP mode.	Qualification (Addl.): Master's in real estate finance	2 Marks	2 Marks
			<b>Total</b>		<b>9</b>
3. Civil Engineer	Degree in Civil Engineering / Urban Planning / Architecture	<p>He / She should have a minimum total experience of 7 years and have worked on at least 5 Eligible Assignments.</p> <p>Eligible Assignment: Assignments with a project value &gt;= Rs. 3 Cr. in India satisfying the following condition:</p> <ul style="list-style-type: none"> <li>• Experience in BOQ / Cost Estimates for Real Estate Sector.</li> </ul>	<b>Total Marks: 9</b>		
			<b>Criteria</b>	<b>Scoring Pattern</b>	<b>Maximum Marks</b>
			Total Work Experience	7-10 Years: 2 Marks  Greater than 10 Years: 4 Marks	4 Marks
			Number of Eligible Assignment	5-6 Assignments: 3 Marks  Greater than 6 Assignments: 5	5 Marks

Key Personnel	Minimum Educational Qualification	Minimum Experience and Eligible Assignments	Marks		
				Marks	
			<b>Total</b>		<b>9</b>
4. Legal Expert	Bachelor's degree in law	<p>He / She should have a minimum total experience of 5 years and have worked as a legal expert in at least 3 (three) Eligible Assignments.</p> <p>Eligible Assignment: Assignments with a project value &gt;= Rs. 3 Cr. in India satisfying the following condition:</p> <ul style="list-style-type: none"> <li>• Having experience in reviewing Contract Documents / Concession Agreements in Real Estate Sector.</li> </ul>	<b>Total Marks: 7</b>		
			<b>Criteria</b>	<b>Scoring Pattern</b>	<b>Maximum Marks</b>
			Total Work Experience	5-8 Years: 2 Marks  Greater than 8 Years: 3 Marks	3 Marks
			Number of Eligible Assignment	3-4 Assignments: 2 Marks  Greater than 4 Assignments: 4 Marks	4 Marks
			<b>Total</b>		<b>7</b>

**Scoring Criteria for Approach and Methodology**

<b>S.No</b>	<b>Description</b>	<b>Marks</b>	<b>Further Details</b>
1.	Conceptual Clarity / Understanding of the Assignment	<b>Total Marks: 30</b>	Evaluation will be based on the quality of submissions, including the presentation made by the Bidder. It will be preferred if the proposed key personnel make the presentation
2.	Approach for Providing the Services as per Scope of Work mentioned in the RFP.		
3.	Outreach plan and ability to attract the best investors		

**Scoring Criteria for Credentials**

<b>S.No</b>	<b>Description</b>	<b>Marks</b>	<b>Further Break-Up</b>	<b>Documentary Evidence</b>
1.	Average Annual Turnover of the Firm in the last 3 Years (2022-23, 2021-22, 2020-21)	10	25-50 Crores – 4 Marks 50-100 Crores – 6 Marks 100-500 Crores – 8 Marks 500 Crores and Above – 10 Marks	Summarized Balance Sheets and Statements of Profit and Loss (Audited) and attested by Chartered Account for FY 2022-23, 2021-22, and 2020-21
2.	No. of Employees	10	100 to 200 Full time Employees – 5 Marks 201 to 500 Full Time Employees – 8 Marks 501 and above Full Time Employees – 10 Marks	Self-Certification by the Bidder
3.	Experience of Transaction Advisory Projects in PPP Mode.  Projects are defined as: Undertaking consultancy assignments as Transaction Advisor in Hotel / Tourism / MICE / Multi-Level Buildings / Real Estate Sector under PPP Mode.  Multi-level buildings mean structures with multiple	10	1 - 3 Projects – 4 Marks 4-5 Projects – 7 Marks 6 Projects or more – 10 Marks	Work Order / Contract / Agreement

<b>S.No</b>	<b>Description</b>	<b>Marks</b>	<b>Further Break-Up</b>	<b>Documentary Evidence</b>
	floors designed to accommodate various functions. Examples include malls, hotels, resorts, hospitals, and educational institutions. These buildings feature multiple levels to maximize space utilization.			
	<b>Total</b>	<b>30</b>		

Note: Experience would be counted from Signing of Agreement / Work order