

**DEPARTMENT OF TOURISM  
GOVERNMENT OF MEGHALAYA**



2<sup>nd</sup> Call

invites

**REQUEST FOR PROPOSAL (RFP)**

for

**Development, Operation and Maintenance of 5 Star Luxury Resort,  
located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya  
under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on  
Public Private Partnership**

**May 2025**

*(This document is meant for exclusive purposes of submitting the proposal against this RFP document and shall not be transferred, reproduced or otherwise used for purposes other than that for which it is specifically issued)*

**Volume 1:**

**Instructions to Bidders (ITB)**

## DISCLAIMER

*The information contained in this Request for Proposal (RFP) document or subsequently provided to Bidders, whether verbally or in documentary form by or on behalf of **Tourism Department, Government of Meghalaya** or any of its employees or advisors (herein referred to as “**Authority**”), is provided to “**Bidders/Applicants**” on the terms and conditions set out in this RFP document and any other terms and conditions subject to which such information is provided.*

*The RFP contains brief information about the project for the Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya to 5 Star Luxury Resort under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP) (herein referred to as “**Project**”), by a private participant being the Selected Bidder / Concessionaire selected through a competitive Bidding Process. The purpose of this RFP is to provide the Bidder(s) with information that may be useful to them in the formulation of their bids (including Financial Bids) (the “**Bids**” or “**Proposal**”) pursuant for this RFP and for no other purpose.*

*This RFP document is not a contract and is not an offer or invitation to any other party. The purpose of this RFP document is to provide the Bidders with information to assist the formulation of their proposal submission. This RFP document does not purport to contain all the information each Bidder may require. This RFP document may not be appropriate for all persons, and it is not possible for the Authority and their employees or advisors to consider the investment objectives, financial situation and particular needs of each Bidder. Certain Bidders may have a better knowledge of the proposed Project than others. Each recipient must conduct its own analysis of the information contained in this RFP document or to correct any inaccuracies that may appear in this RFP document and is advised to carry out its own investigation into the proposed Project, the legislative and regulatory regimes which apply thereto and by and all matters pertinent to the proposed Project and to seek its own professional advice on the legal, financial, regulatory and taxation consequences of entering into any contract or arrangement relating to the proposed Project.*

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

*The possession or use of this RFP in any manner contrary to any applicable law is expressly prohibited. The Bidders shall inform themselves concerning, and shall observe, any applicable legal requirements. The information does not purport to be comprehensive or to have been independently verified. Nothing in this RFP shall be construed as legal, financial or tax advice.*

*The Authority, its employees, advisors or consultants make no representation or warranty and shall have no liability to any person, including any Bidder under any law, statute, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damages, cost or expense which may arise from or be incurred or suffered on account of anything contained in this RFP or otherwise including the accuracy, adequacy, correctness, completeness or reliability of the RFP and any assessment, assumption, statement or information contained therein or deemed to form part of this RFP or arising in any way for participation in this Bid Stage. Neither the information in this RFP nor any other written or oral information in relation to the Bidding Process for implementing the Project or otherwise is intended to form the basis of or the inducement for any investment activity or any decision to enter into any contract or arrangement in relation to the Project and should not be relied as such.*

*The Authority its advisors/ consultants/ representatives/ employees accept no liability of any nature whether resulting from negligence or otherwise, howsoever caused, arising from reliance of any Bidder upon the statements contained in this RFP.*

*The Authority may in its absolute discretion, but without being under any obligation to do so, update, amend or supplement the information, data, statements, assessment or assumptions contained in this RFP or change the evaluation or eligibility criteria at any time or annul the entire Bidding Process.*

*The issue of this RFP does not imply that the Authority is bound to select or to appoint the Selected Bidder or Concessionaire, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Bid or Bids without assigning any reasons whatsoever.*

*The Bidder shall bear all its costs associated with or relating to the preparation and submission of its Bid including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Bid including costs relating to submission and maintenance of various fees, undertakings and guarantees required pursuant to this RFP and also any cost relating to updating, modifying or re-submitting its Bid pursuant to the RFP being updated, supplemented or amended by the Authority. All such costs and expenses will be incurred and borne by the Bidder and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by a Bidder in preparation or submission of the Bid, regardless of the conduct or outcome of the Bidding Process (hereinafter defined).*

*The Bidders are prohibited from any form of collusion or arrangement in an attempt to influence the selection and award process of the Bid. Giving or offering of any gift, bribe or inducement or any attempt to any such act on behalf of the Bidder towards any officer/employee/ advisor/ representative of the Authority or to any other person in a position to influence the decision of the Authority for showing any favour in relation to this RFP or any other contract, shall render the Bidder to such liability/penalty as the Authority may deem proper, including but not limited to rejection of the Bid of the Bidder and forfeiture of its Bid Security.*

## Table of Contents

<b>DISCLAIMER.....</b>	<b>3</b>
<b>Project Summary.....</b>	<b>8</b>
<b>1. INVITATION FOR PROPOSAL.....</b>	<b>11</b>
1.1 Introduction.....	11
1.2 Schedule of Bidding Process .....	13
1.3 Pre-Bid Conference.....	13
1.4 Authority's Authorized Representative.....	13
<b>2. PROJECT DETAILS .....</b>	<b>15</b>
2.1 Project Overview .....	15
2.2 Business Potential: Tourism Industry .....	15
2.3 Project Description & Site Appreciation.....	19
2.4 Implementation Schedule.....	22
2.5 Key Terms .....	22
2.6 Bid Variable .....	22
2.7 Pay-outs to the Authority .....	22
<b>3. INSTRUCTIONS FOR BIDDING .....</b>	<b>25</b>
A. General.....	25
3.1 General Terms of Bidding.....	25
3.2 Qualification / Shortlisting of Bidders .....	27
3.3 Proposal submitted by a Consortium .....	33
3.4 Change in Ownership .....	35
3.5 Number of Bids and costs thereof .....	36
3.6 Site visit and verification of information.....	36
3.7 Verification and Disqualification .....	37
3.8 Right to accept or reject any or all Bids/ Bids .....	37
B. Documents .....	38
3.9 Contents of the RFP.....	38
3.10 Clarifications .....	38
3.11 Amendment of RFP .....	39
C. Preparation and Submission of Bid .....	39
3.12 Language.....	39
3.13 Format and signing of Bid .....	39
3.14 Sealing, Marking and Submission Proposals /Bids .....	40
3.15 Late Bids.....	42

<b>3.16</b>	<b>Modifications/ Substitution/ Withdrawal of Bids .....</b>	<b>42</b>
<b>3.17</b>	<b>Rejection of Bids.....</b>	<b>42</b>
<b>3.18</b>	<b>Validity of Bids.....</b>	<b>42</b>
<b>3.19</b>	<b>Confidentiality .....</b>	<b>43</b>
<b>3.20</b>	<b>Correspondence with the Bidder.....</b>	<b>43</b>
<b>D.</b>	<b>Bid / Proposal Security.....</b>	<b>43</b>
<b>3.21</b>	<b>Bid / Proposal Security.....</b>	<b>43</b>
<b>3.22</b>	<b>Performance Security.....</b>	<b>44</b>
<b>3.23</b>	<b>Proprietary data .....</b>	<b>44</b>
<b>4.</b>	<b>EVALUATION OF BIDS .....</b>	<b>45</b>
<b>4.1</b>	<b>Opening and Evaluation of Bids.....</b>	<b>45</b>
<b>4.2</b>	<b>Tests of responsiveness.....</b>	<b>46</b>
<b>4.3</b>	<b>Selection of Bidder .....</b>	<b>46</b>
<b>4.4</b>	<b>Avoidance of Contact during Bid Evaluation .....</b>	<b>47</b>
<b>4.5</b>	<b>Bids of other Bidders.....</b>	<b>47</b>
<b>5.</b>	<b>FRAUD AND CORRUPT PRACTICES.....</b>	<b>48</b>
<b>5</b>	<b>Fraud and Corrupt Practices.....</b>	<b>48</b>
<b>6.</b>	<b>PRE-BID CONFERENCE .....</b>	<b>50</b>
<b>7.</b>	<b>MISCELLANEOUS.....</b>	<b>51</b>
<b>8.</b>	<b>APPENDICES.....</b>	<b>52</b>
	<b>APPENDIX-A. Letter of Bid &amp; Interest.....</b>	<b>52</b>
	<b>APPENDIX-B. General Information of the Bidder.....</b>	<b>56</b>
	<b>APPENDIX-C. Affidavit.....</b>	<b>58</b>
	<b>APPENDIX-D. Power of Attorney .....</b>	<b>59</b>
	<b>APPENDIX-D-1: Format for Power of Attorney for Authorized Signatory.....</b>	<b>59</b>
	<b>APPENDIX-D-2: Format for Power of Attorney for Lead Member of the Consortium.....</b>	<b>61</b>
	<b>APPENDIX-E: Minimum Eligibility Criteria .....</b>	<b>64</b>
	<b>APPENDIX-E-1: Bid Response Sheet 1.....</b>	<b>65</b>
	<b>Format for Technical Capacity .....</b>	<b>65</b>
	<b>Technical Capacity: CRITERIA: A- Bidder with HOSPITALITY EXPERIENCE.....</b>	<b>65</b>
	<b>APPENDIX-E-1: Bid Response Sheet 2.....</b>	<b>66</b>
	<b>Format for Technical Capacity .....</b>	<b>66</b>
	<b>Technical Capacity: CRITERIA: B – Bidder with CONSTRUCTION EXPERIENCE and Tie-up with Operator from Hospitality Sector .....</b>	<b>66</b>
	<b>APPENDIX-E-2: Bid Response Sheet 2.....</b>	<b>70</b>

<b>Format for Financial Capacity .....</b>	<b>70</b>
<b>Financial Capacity .....</b>	<b>70</b>
<b>APPENDIX-E-3: Bid Response Sheet 3.....</b>	<b>72</b>
<b>Certificate from the Statutory Auditor regarding Associate .....</b>	<b>72</b>
<b>APPENDIX-F: Acknowledgement Letter.....</b>	<b>73</b>
<b>APPENDIX-G: Acknowledgement Letter .....</b>	<b>74</b>
<b>APPENDIX-H: Format for Bid Security (Bank Guarantee) .....</b>	<b>75</b>
<b>APPENDIX-I: Draft Consortium/ Joint Bidding Agreement .....</b>	<b>77</b>
<b>APPENDIX-J: O &amp; M Undertaking.....</b>	<b>82</b>
<b>APPENDIX-K: Format for Financial Proposal .....</b>	<b>83</b>

## Project Summary

Sl No	Parameters	Details
1.	<b>Project Title</b>	Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunji, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)
2.	<b>Project Scope (Refer Section 2 for details)</b>	<p>This RFP is floated for selection of Concessionaire for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP). Scope of work for the Project entails:</p> <ul style="list-style-type: none"> <li>► Development of a minimum 5 Star Luxury Resort and ancillary facilities as per applicable development norms and regulations and in adherence to the standards of Hotel &amp; Restaurant Approval Classification Committee (HRACC), Ministry of Tourism, applicable to a 5 Star Category Resort facility or above.</li> <li>► Obtaining and maintaining accreditation of minimum 5 Star Luxury Resort category facilities or above, from Ministry of Tourism, Government of India and ensuing that facilities are maintained as per the category throughout the Concession Period.</li> <li>► Financing for development, operation and maintenance of the Project</li> <li>► Undertake Operation &amp; Maintenance of the Project for the Concession Period and transfer the property on transfer date.</li> <li>► Obtaining all approvals as may be required for the implementation and operation &amp; maintenance of the Project.</li> <li>► Compliance with all applicable rules, regulation, stipulations and guidelines as applicable and amended from time to time.</li> </ul>
3.	<b>Authority</b>	<b>Tourism Department, Government of Meghalaya</b>
4.	<b>Implementation Format</b>	Public Private Partnership (PPP)
5.	<b>Concession Format</b>	Design-Build-Finance-Operate-Transfer (DBFOT)
6.	<b>Institutional Structure for Implementation</b>	The Selected Bidder (single entity or consortium of entities), shall undertake to incorporate a Special Purpose Vehicle (SPV) under the Companies Act, 2013 as such prior to execution of the Concession Agreement (the “ <b>Concessionaire</b> ”) that shall be exclusively responsible for designing, engineering, financing, procurement, construction, marketing, operation, management and maintenance of the Project under and in accordance with the provisions of the Concession Agreement, to be entered into between the Concessionaire and the Authority.



Sl No	Parameters	Details
7.	<b>Term of the Agreement (Concession Period)</b>	The Concession Period shall be <b>60 (Sixty) Years</b> from the Appointed Date which includes <b>Three Years</b> for construction/development. <i>The Concession Period may be extended subject to satisfactory performance of the Concessionaire and terms and conditions as stipulated in the Concession Agreement and at the sole discretion of the Concessions Authority.</i>
8.	<b>Minimum Development Obligations (MDOs)</b>	The Minimum Development Obligation shall include development of a Luxury facility Resort (adhering to the minimum standards of a 5 Star Category Luxury Resort) with all ancillary amenities including Rooms, Restaurants, Cafes, Meeting rooms & Banquet facilities, Spa, Swimming Pool, Water sport activities and other facilities as applicable within 36 (thirty-six) months from the Appointed Date as per the specifications provided in the Concession Agreement.
9.	<b>Consortium (Refer Clause 3.3 for details)</b>	<b>Maximum 3 members</b> (including the Lead Member)
10.	<b>Appointed Date</b>	<ul style="list-style-type: none"> <li>► The date of issuance of Certificate of Compliance after fulfilment of Conditions Precedent by both the Parties. The Certificate of Compliance if issued at two different dates, the issuance of the certificate at later date shall be reckoned as Appointed Date.</li> <li>► Appointed Date shall be achieved within 180 (one hundred and eighty) days of date of signing of Agreement, subject to extension as per terms of Article 4 of Draft Concession Agreement.</li> </ul>
11.	<b>Selection Process (Refer Clause 4.1 for details)</b>	<p>Step 1 – Assessment of Technical Capacity and Financial Capacity to determine Technically Qualified Bidders (Detailed process outlined in Clause 4.1)</p> <p>Step 2 – Financial Proposals of only Technically Qualified Bidders shall be opened to select the Successful Bidder</p>
12.	<b>Bid Variable (Refer Clause 2.6 for details)</b>	Bidder quoting maximum Revenue Share over and above the minimum threshold shall be declared as successful bidder.
13.	<b>Financial Covenants (Refer Clause 3.21 for details)</b>	<p><b><u>Non-Refundable Bid Document Fee (Payable online):</u></b></p> <p><b>INR 2,95,000/- (Rupees Two Lakh and Ninety-Five Thousand Only)</b></p> <p><b><u>Bid / Proposal Security:</u></b></p> <p><b>INR 2.95 Crore (Rupees Two Crores and Ninety-Five Lakhs Only)</b></p> <p><b><u>Performance Security:</u></b></p>

Sl No	Parameters	Details
		<p>The Successful Bidder has to furnish Performance Securities before signing the contract in the manner as mentioned below:</p> <ul style="list-style-type: none"> <li>➤ From the date of execution of the Contract till COD: <b>INR 9 Crores</b> with validity of 60 (sixty) days beyond the <b>Construction/Development period</b></li> <li>➤ From COD till expiry of Concession Period: <b>INR 6 Crore</b> with validity of 60 (sixty) days beyond the <b>Concession Period</b></li> </ul> <p><i>Note: Performance Security of Concession Period shall be renewed and escalated every 5 years based on WPI of every fifth year.</i></p>
14.	<b>Expected CAPEX (Estimated Project Cost)</b>	<p>Expected CAPEX: INR 295 Crore</p> <p><i>Note-</i></p> <p><i>Phase -1: A minimum of 80 rooms, along with all ancillary facilities and infrastructure, are to be developed by the Concessionaire within 36 months from the Appointed Date, in accordance with the Concession Agreement.</i></p> <p><i>Phase-2: The remaining 60 rooms are to be developed by the Concessionaire within 3 years from the completion of Phase-1 development.</i></p>
15.	<b>Consideration to Authority</b>	<p>Described in detail in Clause 2.7</p> <ul style="list-style-type: none"> <li>➤ <b>One-time Upfront Premium</b> – Rs 5 crs (Five crore only)</li> <li>➤ <b>Annual Concession Fee</b> - INR 1 Lakh escalated @ 10% in every three years</li> <li>➤ <b>Annual Lease Rental</b> – 5 Lakhs (Five Lakhs) which is 1% of Upfront Premium. The Annual Lease Rent shall be escalated by 5% in every 3 years.</li> <li>➤ <b>Revenue Share</b> - 4% of Gross Revenue for each accounting year which shall be considered as Bid Variable/Bid Parameter to select bidder</li> </ul> <p>Note: Capital subsidy and various incentives under Meghalaya Industrial &amp; Investment Promotion Policy (MIIPP)-2024 and Uttar Poorva Transformative Industrialisation Scheme (UNNATI)-2024 shall be applicable to the project.</p>

## 1. INVITATION FOR PROPOSAL

### 1.1 Introduction

- 1.1.1 Meghalaya, the abode of clouds, is known to be one of the richest biodiversity areas in the world. The famed monsoons, the rich traditional festivals, and the dramatic terrain are just some of the many things the state is famous for. The state is endowed with lofty mountain ranges with interplay of lush green valley, cascading rivers, sprawling water bodies, waterfalls, caves, and living root bridges. Meghalaya has two national parks and three wildlife sanctuaries. Shillong is Meghalaya's state capital and the main cultural hub. It is a microcosm of the entire North-East region with its status as a regional academic nerve centre – home to a young creative, and aspiring population. The charm of the old hill town still resonates, and its culture and landscape provide a perfect blend of modern world and deep tradition. Bustling cafes and restaurants dot its commercial centers, and the town is also a wonderful stop for avid shoppers. The city's nightlife attracts revellers and live music venues provide the stage for many a famous local and international musician.
- 1.1.2 Tourism Department, Government of Meghalaya has the mandate to promote tourism in the state of Meghalaya by showcasing its natural beauty, rich culture, and unique attractions to visitors from around the world. As a part of the mandate Tourism Department is taking up the project for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP).
- 1.1.3 The Authority shall carry out a transparent competitive bid process for selection of the Private Sector Partner for the project.

This Request for Proposal (RFP) is for the selection of developer for **“Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP) (the “Project”)** basis for a **Concession Period of Sixty (60) years** from the Appointed Date. A brief of the project is provided hereunder, for any further details of the Project refer Section 2 of this document:

Particulars	Description
Area	25 acres (approximately)
Location	Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya - 793 108
Land Ownership	Meghalaya Tourism Development Corporation (MTDC)

- 1.1.4 A **“Single-Stage Two-Envelope”** Bidding Process is to be followed for determining the Selected Bidder for the Project:

#### **Step 1 – Qualification and Shortlisting**

The Bidders are required to meet the Minimum Eligibility Criteria, as set out in Section 3.2.6 of this RFP document, to qualify for the Project (**“Technically Qualified”** Bidder).

#### **Step 2 – Financial Proposal Evaluation and Selection**

The Financial Proposal of the Technically Qualified Bidders would be opened and evaluated. The Technically Qualified bidder quoting the highest bid variable shall be declared as the Selected Bidder.

- 1.1.5 The Bid Document for the Project shall comprise of the Instruction to Bidders (ITB), Draft Concession Agreement (DCA), Schedules to Draft Concession Agreement and any subsequent addendum or corrigendum issued by the Authority thereof. This ITB contains information about the Project, bid evaluation process, proposal submission details and qualification requirements. All proposals would be evaluated in terms of financial and technical capability of the Bidder.
- 1.1.6 Interested Bidders may download the Bid Documents from <https://www.meghalayatourism.in/>. A **non-refundable fee of INR 2,95,000/- (Rupees Two Lakh and Ninety-Five Thousand Only)** to be paid through online. Bids unaccompanied with the Bid Document Fee or a receipt of payment thereof shall be liable to rejection by the Authority.
- 1.1.7 The Technical Proposals shall be submitted in hard copy. The hard copy of Technical Proposals must be in the manner specified in the RFP document at the address given below:
- To,  
The Director  
Department of Tourism, Govt of Meghalaya  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India  
Phone No : +91 73089 52956  
E-mail : [technical.tourism@gmail.com](mailto:technical.tourism@gmail.com)/ [info@meghalayatourism.in](mailto:info@meghalayatourism.in)
- 1.1.8 The Technical Proposal and the Financial Proposal are jointly termed as “Proposal/s in this RFP. The Authority shall not be responsible for any delay in receiving the Proposals and reserves the right to reject / accept any or all Proposals without assigning any reason thereof.
- 1.1.9 The Selected Bidder shall, prior to execution of the Concession Agreement (the “**Concession Agreement**”), incorporate as per the terms of this RFP, an appropriate Special Purpose Vehicle (the “**SPV**”) under the Companies Act, 2013 to execute the Agreement and implement the Project and such SPV (the “**Concessionaire**”) shall be responsible for development, operation and maintenance of the Project under and in accordance with the provisions of the Agreement to be entered into between the Concessionaire and the Authority. Further, SPV may not be required to be incorporated if the Selected Bidder is itself the owner/developer and operator of the hotel (under its own brand) and uses its own fund and there is no consortium/borrowing.
- 1.1.10 A Contract (the “**Concession Agreement**” or the “**Agreement**”) will be drawn up between the “Authority” and the “Concessionaire” pursuant to issuance and acceptance of LOA.

## 1.2 Schedule of Bidding Process

Authority shall endeavour to adhere to the following schedule:

Sl No	Event Description	Date
1.	Start date of Downloading of RFP document	12 <sup>th</sup> May 2025
2.	Pre-Bid Conference	16 <sup>th</sup> May 2025
3.	Last date for receiving queries	15 <sup>th</sup> May 2025
4.	Start Date of Bid Submission	12 <sup>th</sup> May 2025
5.	<b>End Date of Bid Submission / Bid Due Date</b>	4:00 PM on 27 <sup>th</sup> May 2025
6.	Opening of Technical Proposal	4:30 PM on 27 <sup>th</sup> May 2025
7.	Opening of Financial Proposals	To be announced
8.	Letter of Award (LOA)	To be announced
9.	Acceptance of LOA	To be announced
10.	Signing of Agreement between Authority & Selected Bidder	To be announced
11.	Validity of Bids	180 Days from the Bid Due Date

### Bid Due Date

Bid should be submitted on the Application Due Date (Clause 1.2), at the address provided in Clause 1.1.7 in the manner and form as detailed in this RFP.

## 1.3 Pre-Bid Conference

1.3.1 The date, time and venue of the Pre-Bid Conference shall be:

- ▶ Date: 16<sup>th</sup> May 2025
- ▶ Time: 12:00 PM
- ▶ Venue:  
Directorate of Tourism, Govt of Meghalaya  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India
- ▶ The Bidders may attend the Pre -Bid Conference at the venue mentioned above or through Video Conference, the link of the VC shall be provided on request and also made available on the website <https://www.meghalayatourism.in/> 24 hrs prior to the scheduled date and time.

1.3.2 The minutes of the Pre-Bid Conference incorporating the clarifications shall be uploaded online only and shall form part of this RFP document. Queries raised after last date for receiving queries shall not be entertained.

## 1.4 Authority's Authorized Representative

1.4.1 The Bidders may, during the Bid process, contact the Authority's Authorized Representative as below, for any clarification. However, it may be noted, that only those clarifications, sought as per the procedure laid out in Clause 3.10, shall be answered by the Authority. Neither the

Authority, nor any of its representatives, shall be responsible for any other verbal clarifications / communications. The Authority may be contacted, for clarifications, at the following address through post.

To,  
The Director of Tourism,  
Department of Tourism, Govt of Meghalaya  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India  
Phone No : +91 73089 52956  
E-mail : [technical.tourism@gmail.com](mailto:technical.tourism@gmail.com) / [info@meghalayatourism.in](mailto:info@meghalayatourism.in)

## 2. PROJECT DETAILS

### 2.1 Project Overview

Meghalaya also known as “abode of clouds” in Sanskrit is one of India’s and a jewel for North East India. The state is part of the seven north eastern states (known as Seven Sisters), is bounded by Assam on the North and East and Bangladesh on the South and West. Spread over an area of 22,429 sq. kms, the state is one of the most picturesque states of India. The panoramic landscapes, foggy hills, cascading waterfalls, serpentine rivers and terraced slopes make the destination as a soulful tourist destination. Gifted with incredible natural beauty Meghalaya possesses great tourism potential.

Shillong is the capital city of Meghalaya as well as the District Headquarter of East Khasi Hill District. The name Shillong is derived from U-Shyllong, a powerful deity and is situated at an altitude of 1,491m above sea level. The presence of many well reputed educational institutions, many of them established by various missionary groups make Shillong the hub of education for the entire north- east.

With a view to develop necessary infrastructure and improve tourism in the state of Meghalaya, the administrators have been pro-active in identifying infrastructure gaps which may pose hinderance to the tourism landscape of the state. Tourism Development, Government of Meghalaya has the mandate to promote tourism in the state of Meghalaya by showcasing its natural beauty, rich culture, and unique attractions to visitors from around the world. As a part of the mandate **Tourism Department, Government of Meghalaya** is taking up the project for “**Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)**”.

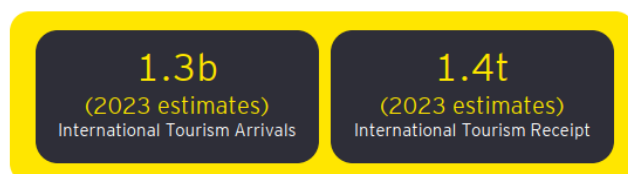
### 2.2 Business Potential: Tourism Industry

#### 2.2.1 The global tourism industry: an overview

##### *Tourism sector remains a key contributor to the global economy*

The tourism sector globally has emerged as a key contributor to economic and social growth. As per World Travel and Tourism Council (WTTC), the travel and tourism industry accounted for nearly 10.3% of global GDP and 330 million jobs, or one in 10 people in 2019. The sector grew by 3.5% in 2019, a rate higher than that of the global economy for the ninth consecutive year, thereby enriching local communities at a faster rate than many other sectors.

Over the past five years, as many as one in four new jobs created across the world has been in travel and tourism. The tourism estimates for FY23 indicates strong rebound in terms of tourism arrivals as well as receipt.

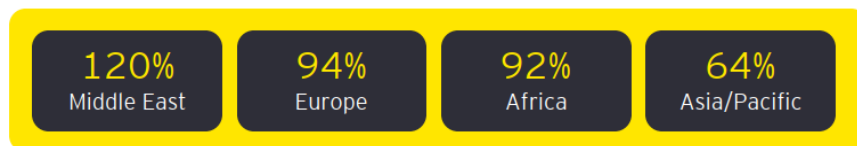


Source: ASSOCHAM & EY published paper

**Strong recovery from the set back of pandemic observed across continents.**



The tourism industry was one of the key sectors to be severely hit by the pandemic situation. However, the sector is experiencing a recovery trend in 2023 which is expected to further strengthen in 2024. Latest data from UNWTO (nine months ending September 2023 tourism arrivals) indicates a strong recovery from the pandemic setbacks with most destinations reaching and some even exceeding the pre pandemic levels (see fig below).



Source: UNWTO Report

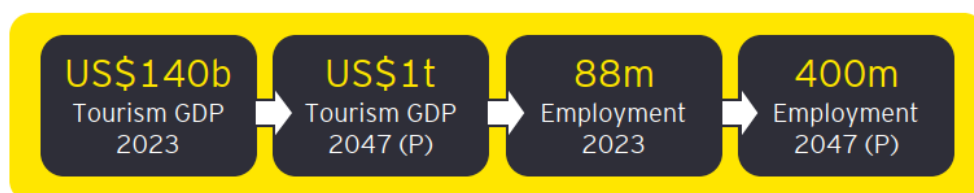
While the recovery of Asia and Pacific Region is slow, it is pertinent to note that South Asia has reached a level of 95% of the pre pandemic arrival. The relatively slow recovery in Asia/Pacific is largely attributable to West Asia. Overall, the 2023 tourism arrivals are expected be to the tune of 95% of pre-COVID period.

## 2.2.2 The Indian tourism industry: an overview

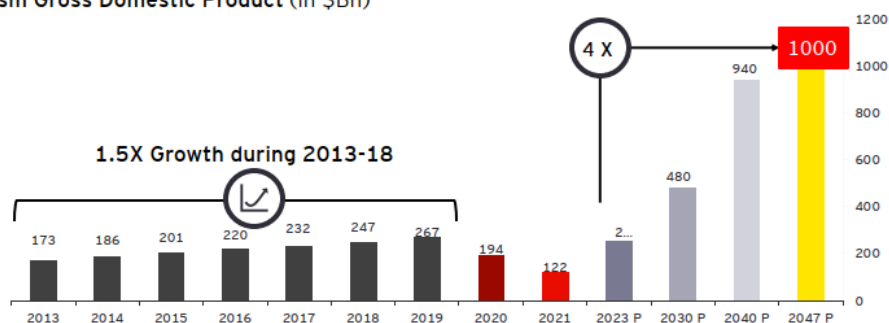
***Tourism in India remains a key sector for growth.***

In 2019, travel and tourism were one of the largest sectors in the country, accounting for 6.90% of the national GDP (US\$191.3 b). However, due to the COVID-19 pandemic, the sector contribution to GDP dropped to US\$121.9 b in 2020 reflecting a decline of 36.3%. As per WEF's Travel and Tourism Development Index 2021, India is ranked 54th globally, while remaining a top performer in South Asia.

However, post pandemic the sector exhibited strong recovery trends with steady growth in tourism footfalls and spendings. As per the Draft National Tourism Policy 2022 (July 2022) targets, the industry's GDP is projected to reach US\$1t by 2047. In 2019–20, the tourism sector contributed 15% to total jobs in India, with total jobs standing at approximately 80 million. This figure is projected to reach 400 million by 2047.



Tourism Gross Domestic Product (in \$Bn)



**Tourism GDP of India is envisioned to contribute to 1 Trillion to economy by 2047**

Source: pib.gov.in



### 2.2.3 NER tourism: key trends

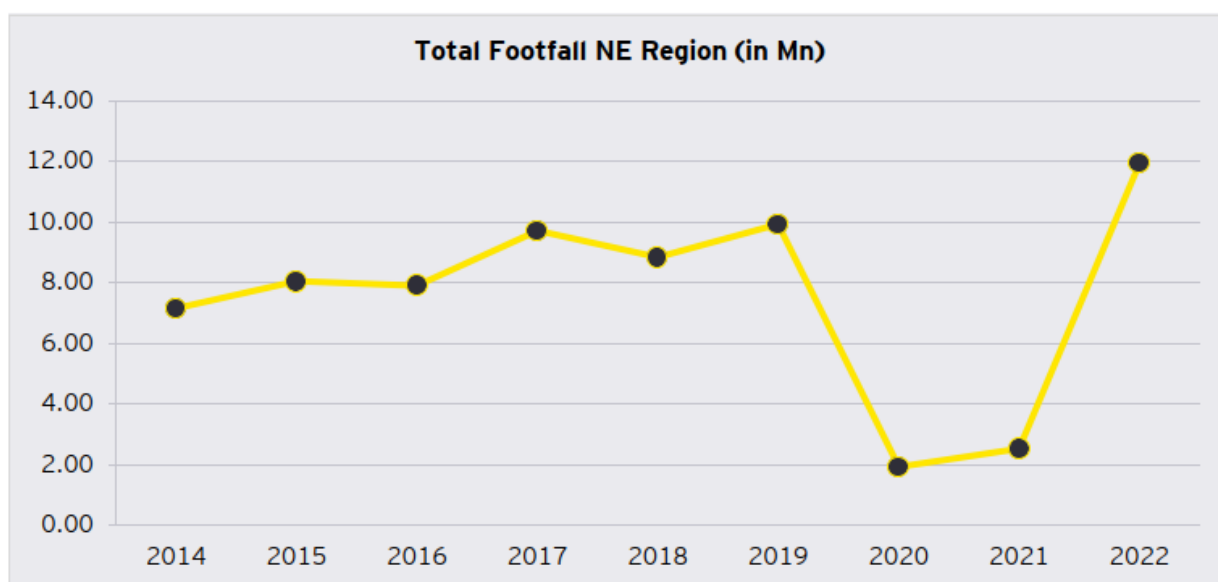
The North-East Indian States are blessed with a unique blend of tourism assets and a range of tourism offerings including wildlife tourism, tea and golf tourism, river tourism, religious and spiritual tourism, heritage tourism, cultural and culinary tourism, adventure tourism and agro and rural tourism.

The region is a melting pot of cultures and traditions, with each state having its unique identity. This diversity is reflected in the food, festivals, music, and dance of the region, making it a perfect destination for cultural tourism. Northeast India is also home to several historical monuments and temples, including Kamakhya Temple in Assam, which is one of the oldest and most revered shrines in India, and the living root bridges of Meghalaya, which are a unique attraction and a testament to the ingenuity of the local people.

The region is home to many wildlife sanctuaries like Kaziranga National Park famous for the one horned rhinoceros, Manas National Park, Nameri, Orang, Dibru Saikhowa in Assam, Namdhapha in Arunachal Pradesh, Balpakram in Meghalaya, Keibul Namjao in Manipur, Intanki in Nagaland, Khangchendzonga in Sikkim. The Brahmaputra flows through the length of Assam where tourists can enjoy memorable river cruises and the flowing rivers of Arunachal Pradesh which feed the Brahmaputra offering incredible white water rafting experiences.

#### ***The sector shows strong growth story and potential of the region:***

Over the previous decade, there has been a consistent growth in the inflow of tourists into the Northeast States. Additionally, between 2014 and 2019, foreign tourist visits to the Northeast region grew at a record CAGR of 26%.



Source: Ministry of Tourism Statistics (FTV+DTV)

### 2.2.4 Meghalaya Tourism: Overview

According to the Economic Survey of India 2019-20, the Tourism Direct Gross Value Added (TDGVA) share in the Gross Value Added (GVA) in the state of Meghalaya was 5.22% (in the year 2015-16). The share of tourism employment in Meghalaya state employment was 10.44% (in the year 2015-16).

The total Capital Expenditure and Revenue Expenditure on Economic Development of Meghalaya and the Tourism share for the 8 financial years 2016-17, 2017-18, 2018-19, 2019-20, 2020-21, 2021-22 and 2022-23 were:

Meghalaya - Revenue Expenditure on Economic Development (Actuals)								
Particulars	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23 R.E.	2023-24 BE
Total Revenue Expenditure (in Lakh)	2,75,722	2,44,820	2,62,198	2,18,216	3,15,578	3,91,425	4,83,490	5,05,711
Tourism Expenditure (in Lakh)	1,724	1,359	1,189	1,621	2,059	6,568	2,795	4,809
Tourism Share (in %)	0.63	0.56	0.46	0.74	0.65	1.68	0.58	0.95
Source: Budget at a Glance Meghalaya 2022-24								

Meghalaya - Capital Expenditure (Actuals)								
Particulars	2016-17	2017-18	2018-19	2019-20	2020-21	2021-22	2022-23 R.E.	2023-24 BE
Total Capital Expenditure (in Lakh)	1,73,501	1,43,511	1,90,271	1,40,416	2,30,346	5,25,333	7,13,079	4,83,615
Tourism Expenditure (in Lakh)	848	992	1100	168	624	1,166	1,915	4,300
Tourism Share (in %)	0.49	0.69	0.58	0.12	0.27	0.22	0.27	0.89
Source: Budget at a Glance Meghalaya 2022-24								

Meghalaya is blessed with plethora of tourism assets and offers wide variety of experiences for all categories of tourists. The State has witnessed increasing tourist footfalls, and the unique opportunities of Meghalaya hold a lot potential waiting to be tapped. In 2019, the tourist footfall in the State stood at about 12.7 lakhs (including 25,000 foreigners) which decreased to 1.5 lakhs in 2021 due to COVID-19. Pre-pandemic, out of the total tourist visits in 2019, domestic tourist footfalls stood at 12,45, 633 while the number of foreign visitors reached 25,813.

Tourism in Meghalaya has shown an increasing trend, increasing tourist footfalls is an indicator of the achieved growth. This has been possible primarily due to:

- ▶ Proximity of Shillong from Guwahati – among one of the main contributors of footfall in Meghalaya
- ▶ The natural tourism assets of the state (more than 100 identified spots)
- ▶ Changing preferences of the tourists.

As per Meghalaya Tourism Policy 2023, the tourism sector plays a prominent role in providing livelihood opportunities to almost 50,000 people in the State. Since the ban on coal mining in 2014 which eventually resumed in 2019 (except the export of coal), tourism became one of the key contributors to the economy of Meghalaya. It has been estimated that the sector contributes about 4.1% to the State's GSDP. State's tourism budget has been steadily increasing which has led to an increase in tourist footfalls.

The state has an abundance of forest cover ~76% with rich biodiversity (wildlife, sacred forests etc.) - serene landscapes and nature experiences (falls, rivers, lakes etc.) with multiple adventure opportunities (trekking, caving, boating etc.). Additionally, the State's welcoming culture and low crime rate is an advantage compared to other national destinations. States rich tourism assets has created a strong pull factor for the tourists. Meghalaya has over 100 tourist spots almost half of which are in the East Khasi Hill district.

Owing to the rich assets, the tourism landscape of Meghalaya seems like an encouraging destination, even during COVID times. The states assets, combined with the changing preferences of tourists, of visiting off beat locations, not having too much of hustle and bustle, makes Meghalaya an important destination on the tourism map of India. The key drivers of the tourism potential of Meghalaya are as follows.

**Connectivity** - Meghalaya, over the years has gained popularity to its improved connectivity. Probably the only place in India that is both Exotic & Well Connected. Shillong is well connected to all the major cities of the country via Guwahati which is a little over 2 hours via a car. Shillong is also directly connected to Kolkata via a daily flight and the plans to have a direct flight from Delhi are already making headway.

**Recognition/ Recall Value** – Shillong also known as Scotland of East, is known for its picturesque landscape, Cherrapunjee also known as Shohra & Mawsynram are known as the lands of Rain & Peace. While the natural treks and caves also cater to the adventure tourists Wishlist. With increasing popularity of NH7 weekender music festival, the state has been able to create of recall value among the millennials.

**Changing Preferences of Tourists:** With the ongoing pandemic, the tourists have shown keen interest in moving towards offbeat locations, while also wanting to be connected. Meghalaya serves well in being an offbeat location and considerable connectivity. The natural treks, adventure sports, cultural exchange offers strong position of the state in times to come.

**Safety & Welcoming Culture:** Shillong makes a welcoming destination for the tourists, especially women and international tourists. The indigenous culture and the distinct communitarian way of life have been a major attraction for the state.

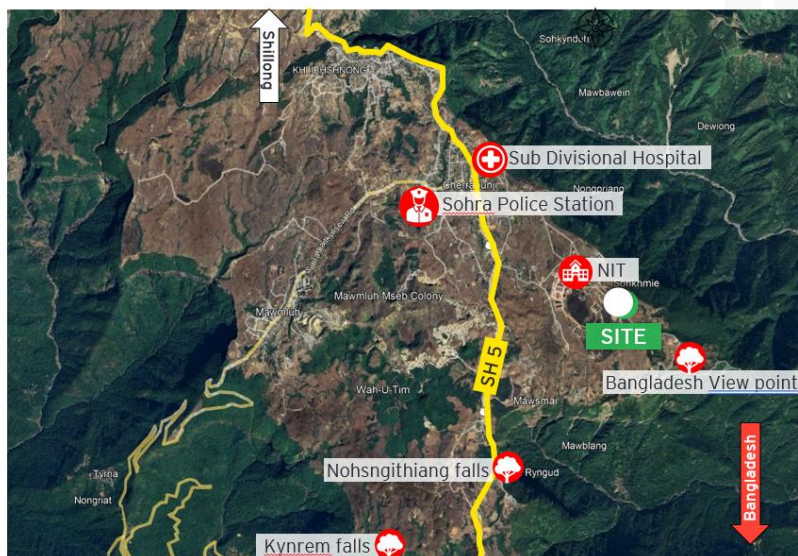
## 2.3 Project Description & Site Appreciation

### 2.4.1 Project Location

The project site is located on the backside of National Institute of Technology (NIT) and adjacent to Jevva Resort in the Sohra region, Cherrapunjee. The region has presence of various resorts such as Jeeva resort, Polo Orchid Resort, Cherrapunjee Holiday Resort, JMS resort etc. The region's landscape has been a key factor for attracting tourists coming in the region. The cascading waterfalls, breathtaking vista points, forest hiking and trekking trails, and unique cultural attractions including the double decker living root bridge at Nongriat, and Mawsmmai caves, is flocked by tourists every year. Tourism assets of the region can be classified into Natural Tourist Attractions – Mainly comprise of the waterfall and viewpoints in the region, Cultural Tourism Attractions – comprising of caves, living root bridges, local markets, etc., and Events and Festivals



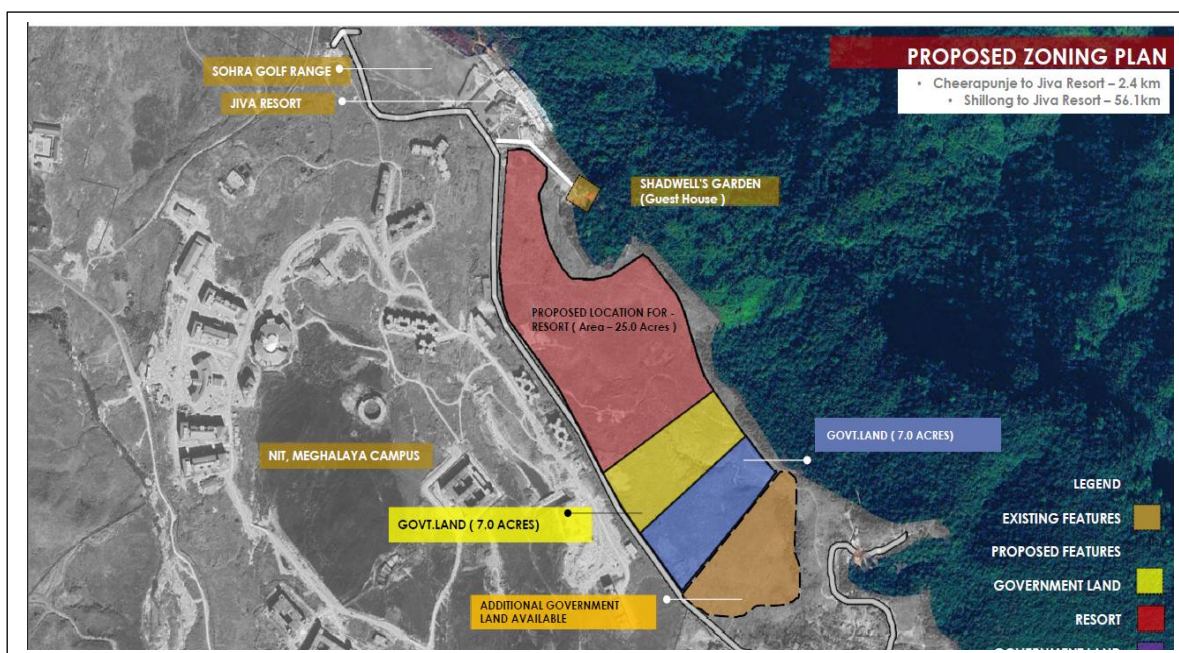
## Regional Setting - Sohra, Cherrapunjee



### CONNECTIVITY & LINKAGES

Shillong Airport - 82.3 km
Guwahati Airport - 168 Km
Guwahati Railway Station - 150 km
Village Road - Abutting the site
SH 5 - within 3.9 km
NH - within 40 Km radius
<b>Major Landmarks</b>
NIT Meghalaya, Sohra - within 1 km
Sohra Saitsohpen Mawpun - 4 Km
<b>Health Facilities:</b> Sub Divisional Hospital within 5 km
<b>Police Station:</b> Sohra Police Station within 8 km
Multiple Schools & Colleges within 1 Km

## Project Site



### 2.4.2 Total Land Area and Ownership

The site admeasures 25 acres (approx.) is owned by the Tourism Department, Govt. of Meghalaya. The Tourism Department, Government of Meghalaya has the mandate to promote tourism in the state of Meghalaya by showcasing its natural beauty, rich culture, and unique attractions to visitors from around the world.



## Project Site Details – Sohra, Cherrapunjee



Site Details	
Land Area	Total plot area – 40 Acre Plot area for resort – 25 Acre
Location	Located near Jiva Resort, Sohra
Land Ownership	Tourism Dept., Govt. of Meghalaya
Existing Structure	Vacant land, plain sandy land with undulations
Approach Road	Site is well connected with approx. 3M approach road connects to Sohra & Shella road
Site Boundaries	North: Jiva Resort, Nongprinig; South: Kutmadan Resort, Seven Sisters Waterfall, Nohsngithing; East: Sohkhmie; West: NIT Meghalaya, Shora – Shella Road

### Surrounding Developments:



No Ka Likai falls



Noh Sngithiang falls

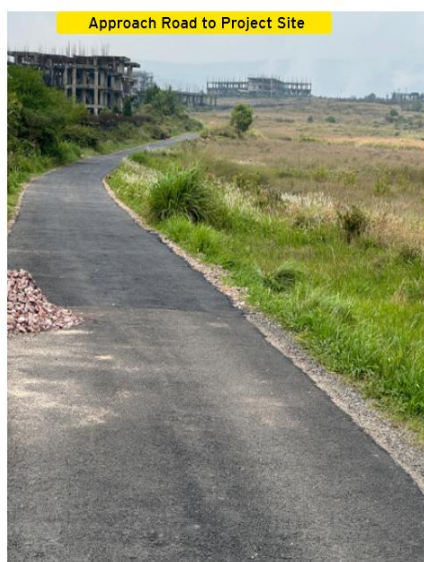


Mawmsai Cave



Arwah Caves

## Project Site - Photos



### 2.4.3 Applicable Development Control Regulations

As per Meghalaya Building Bylaws 2021, 'Special Projects' – Means those projects / buildings with large scale activities such as Hotels, Public Institutions, Healthcare, shopping malls, Multiplexes, ICT / BPO's, Educational Institution having a minimum plot area of 50,000 sq. ft and a minimum single covered area of 40% of the plot area.

Type of Occupancy	Maximum permissible F.A.R	Maximum permissible Plot Coverage	Maximum no. of Permissible Floors (Inclusive of Basement / Lower Ground Floor / Underground Floor / Cellar)	Maximum Building Height in metres (Inclusive of Basement / Lower Ground Floor / Underground Floor / Cellar/mezzanine floor / Service Floor)
Special Project	3	40%	7	27

## 2.4 Implementation Schedule

The Concessionaire shall undertake all necessary activities to completely operationalise with first phase of 80 keys the Resort, including procuring equipment, necessary civil work, marketing, etc., **within 36 (thirty-six) months of Appointed Date**. Further, rest 60 keys to be completed within 3 years from the Commercial Operation Date.

## 2.5 Key Terms

The following shall apply to the Concessionaire:

- a) The Concessionaire shall hold lease title to the land and built-up area provided by the Authority along with its right of way.
- b) The Concessionaire shall develop / redevelop the Resort as per its own discretion as long as it is in accordance with the applicable building bye laws and other regulations applicable to the sites.
- c) The Concessionaire shall earn revenues from resort as per rates to be set at the discretion of the Concessionaire.
- d) The Concessionaire shall be responsible for obtaining all applicable permits, incl. building permits and other approvals required for development of the Project.

## 2.6 Bid Variable

- a) Revenue Share quoted over and above the minimum threshold of **4% (Four Percent) of Gross Revenue for each accounting year** shall be the Bid Variable. Any bidder quoting below the threshold shall summarily be rejected.
- b) Technically Qualified Bidder quoting the highest **Revenue Share** for the Project shall be declared as the Successful Bidder

## 2.7 Pay-outs to the Authority

In consideration to the award of the Project, the Concessionaire would pay the following to the Authority:

### a) Upfront Premium

- i. Upfront Premium for the Project: **INR 5 Crore (Rupee Five Crore only)**
- ii. Upfront Premium to be paid prior to or simultaneous to signing of the Concession Agreement.
- iii. This amount is not refundable in any circumstances except if the Concession Agreement is terminated due to Authority not being able to complete its Condition Precedents as per timelines mentioned in this Agreement and termination thereof as per terms of this Agreement.

**b) Annual Concession Fees ("ACF") – INR 1,00,000 (Indian Rupee One Lakh only) p.a.**, payable on or before the Appointed Date and subsequently upon each Anniversary of the Appointed Date thereon with escalation @ 10% in every three years

- i. Annual Concession Fee ("ACF"): In consideration of the grant of the Concession, the Concessionaire shall during the Concession Period, pay to the Authority by way of concession fee a sum of Rs. 1,00,000/- (Rupees One Lakhs) per annum, payable on or before the Appointed Date.
- ii. The ACF will be escalated @ 10% in every three years
- iii. First payment of ACF shall be made on a pro-rata basis (calculated as the number of days between the Appointed Date and 31st March of the following year. The payment shall be due on or before the 1st Anniversary of the Appointed Date, i.e. due date for the first payment of

ACF. Every subsequent payment of ACF shall be due and payable within 15 (fifteen) days of the commencement of the Accounting Year

For the purpose of illustration, if the Appointed Date is 15<sup>th</sup> May 2025, then:

- ▶ The first payment of ACF shall be due on or before 15<sup>th</sup> May, 2026.
- ▶ ACF payable on that date would be  $321/365 * ACF$ ;
- ▶ ACF for the next year shall be, and shall be payable on or before 1<sup>st</sup> April, 2027;
- ▶ Subsequent payments of ACF shall be made on or before 1st April of each year post escalation for the financial year, as applicable.

**c) Annual Lease Rental (ALR)-**

- i. Annual Lease Rental – 5 Lakhs (Five Lakhs), which is 1% of Upfront Premium.
- ii. Annual Lease Rental -The Annual Lease Rent shall be escalated by 5% in every 3 years.
- iii. First payment of Annual Lease Rental shall be made on a pro-rata basis (calculated as the number of days between the end of the Construction Period (i.e. which shall be a period of 3 (three) years from the Appointed Date) or COD, whichever is earlier and 31st March of the year or following year, which ever applicable and payment to be made within 15th April of the year concerned.
- iv. Every subsequent payment of Annual Lease Rental shall be due and payable within 15 (fifteen) days of the closure of the subsequent Accounting Year. The subsequent payments shall be due and payable within 15 (fifteen) days of every subsequent accounting year.

**Lease Moratorium:** No Annual Lease Rental to be paid during the construction period i.e. which shall be a period of 3 (three) years from the Appointed Date. In-case of Construction Period extends beyond three years, the lease moratorium period will not be extended beyond the three-year period. If the Commercial Operation Date (COD) is achieved within the designated Construction Period of three years, the lease moratorium period concludes on the date of COD achievement.

**d) Revenue Share** amount ("Revenue Share Amount") for the Project as quoted by the selected bidder over and above the minimum threshold of 4% of the **Gross Revenue** from the Project.

- i. The Concessionaire agrees to pay to the Authority, for every year of the Concession Period, commencing from the Project COD, as quoted over and above 4% (Four per cent) of the Gross Revenue as its share in the revenues earned from the Project (the "**Revenue Share**"). The Revenue Share shall be calculated and payable in the following manner:
- ii. The Revenue Share shall be **payable in monthly instalments**. Within 7 (seven) days of the end of each month, the Concessionaire shall pay to the Authority against the Revenue Share, a provisional amount calculated on the basis of Gross Revenue of the immediately preceding month and final settlement thereof, based on audited accounts of the Concessionaire, shall be made within 120 (one hundred and twenty) days of completion of the respective Accounting Year.

**"Gross Revenue"** for any Financial Year shall mean the total amount of Project revenue and receipts of every kind (from both cash and credit transactions computed prior to payment of any commission

or service charge or fee thereon) derived by the Concessionaire/ or any agency appointed by the Concessionaire for operation and maintenance of the Hotel ("Operating Partner") from the operation of the Project Facilities / Project and its facilities, as certified by the statutory auditors of the Concessionaire, including but not limited to receipts from room occupancy charges, telephone, telefax and telex charges, laundry, sale of food, beverages, liquor, recreational amenities (outdoor pool, health club, spa, sauna, fitness facility etc.), outdoor catering, receipts from vending machines; parking, commercial or other spaces on account of rent and fee of every description and kind, and the recovery in respect of any other service or facility provided by the Concessionaire/ Operating Partner to the users / guests of the said Project, which are availed/ realized by the Concessionaire from outside party(ies) at a consideration but shall exclude and be arrived at after deducting the following:-

- a) all statutory applicable indirect taxes such as luxury tax, sales tax, entertainment tax, expenditure tax, service tax, goods & services tax and the like by whatever name called now or in future, which the Concessionaire has agreed to pay or is bound to pay;
- b) revenue on sale of assets of capital nature owned by the Concessionaire; and
- c) interest income from investments made.

For the avoidance of doubt, Gross Revenue shall also include any amount received by any Affiliate/third party agency to whom the Concessionaire/ Operating Partner has contracted any Associated Services, Hospitality Services and/or any other activity related to the Project, and any amount received by the Concessionaire/ Operating Partner from a third party to whom it has contracted any Associated Services, Hospitality Services and/or any other activity related to the Project;



### 3. INSTRUCTIONS FOR BIDDING

#### A. General

##### 3.1 General Terms of Bidding

- 3.1.1 No Bidder shall submit more than one Bid for the Project. A Bidder bidding individually or as a member of a Consortium shall not be entitled to submit another Bid either individually or as a member of any Consortium, as the case may be. In the event, multiple bids received by the Authority from the same Bidder bidding individually or as a member of a Consortium, all Bids shall not be eligible for consideration and shall be summarily rejected.
- 3.1.2 Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the Concession Agreement shall have overriding effect; provided, however, that any conditions or obligations imposed on the Bidder hereunder shall continue to have effect in addition to its obligations under the Concession Agreement.
- 3.1.3 The Bidder shall deposit a Bid / Proposal Security, in accordance with the provisions of this RFP. The Bidder shall provide the Bid / Proposal Security in the form of **Demand Draft (DD) or online transfer through Real Time Gross Settlement (RTGS) / National Electronic Funds Transfer (NEFT) to the account set out below or through an irrevocable and unconditional Bank Guarantee as per format H.**

<b>Beneficiary Name</b>	Director of Tourism
<b>Bank's name</b>	HDFC
<b>Account Number</b>	50100716808990
<b>Branch</b>	Meghalaya Secretariat Branch
<b>Address</b>	Shillong, Meghalaya
<b>IFSC</b>	HDFC0004727

- 3.1.4 The Bidder should submit a Power of Attorney as per the format in Format D-1, authorizing the signatory of the Bid to commit the Bidder. In case the Bidder is a Consortium, the Members thereof should furnish a Power of Attorney in favour of the Lead Member in the format provided in Format-D-2.
- 3.1.5 Any condition or qualification or any other stipulation contained in the Bid shall render the Bid liable to rejection as a non-responsive Bid.
- 3.1.6 The Bid and all communications in relation to or concerning the Bidding Documents and the Bid shall be in English language.
- 3.1.7 The document, including this RFP and all attached documents, provided by the Authority are and shall remain or becomes the property of the Authority and are transmitted to the Bidders solely for the purpose of preparation and the submission of a Bid in accordance herewith. Bidders are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause 3.1 shall also apply mutatis

mutandis to Bids and all other documents submitted by the Bidders, and the Authority will not return to the Bidders any Bid, document or any information provided along therewith.

- 3.1.8 A Bidder shall not have a conflict of interest (the **“Conflict of Interest”**) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. Without limiting the generality of the above, a Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
- i. the Bidder, its Member or Associate (or any constituent thereof) and any other Bidder, its Member or any Associate thereof (or any constituent thereof) have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of a Bidder, its Member or an Associate thereof (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, Member or Associate, as the case may be) in the other Bidder, its Member or Associate, is less than 5% ( five per cent) of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in Section (72) of the Companies Act, 2013. For the purposes of this Clause 3.1.8, indirect shareholding held through one or more intermediate persons shall be computed as follows:
    - a. where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the **“Subject Person”**) shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and
    - b. subject always to sub-clause(a) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub-Clause (b) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or
  - ii. a constituent of such Bidder is also a constituent of another Bidder; or
  - iii. such Bidder, its Member or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, its Member or Associate, or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
  - iv. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
  - v. such Bidder, or any Associate thereof, has a relationship with another Bidder, or any Associate thereof, directly or through common third party/ parties, that puts either or both of them in a position to have access to each other’s information about, or to influence the Bid of either or each other; or
  - vi. such Bidder or any Associate thereof has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.
- 3.1.9 A Bidder shall be liable for disqualification and forfeiture of Bid Security if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Members or any Associate thereof, as the case may be, in any manner for matters related to or incidental to such Project during the Bidding Process or subsequent to the (i) issue of the LOA or (ii)

execution of the Concession Agreement. In the event any such adviser is engaged by the Selected Bidder or Concessionaire, as the case may be, after issue of the LOA or execution of the Concession Agreement for matters related or incidental to the Project, then notwithstanding anything to the contrary contained herein or in the LOA or the Concession Agreement and without prejudice to any other right or remedy of the Authority, including the forfeiture and appropriation of the Bid Security or Performance Security, as the case may be, which the Authority may have thereunder or otherwise, even after the issuance of the LOA or execution of the Concession Agreement, as the case may be, shall be liable to be withdrawn or terminated without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire for the same. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Bidder, its Member or Associate in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of RFP for the Project. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

**Explanation:**

- ▶ ***In case a Bidder is a Consortium, then the term Bidder as used in this Clause 3.1.8, shall include each Member of such Consortium.***
- ▶ In the event of disqualification of a Bidder due to Conflict of Interest found during the Bidding Process, the Authority shall be entitled to forfeit and appropriate the Bid Security.
- ▶ In the event such Conflict of Interest is discovered after signing of Concession Agreement with the Selected Bidder, the Authority has a right to initiate termination proceedings under Concessionaire Default. The provisions of the Draft Concession Agreement shall apply.

### **3.2 Qualification / Shortlisting of Bidders**

- 3.2.1 The Bidder may be a single entity OR a group of members (subject to maximum of **3 Consortium Members**) coming together to implement the Project (the “**Consortium**”). However, no Bidder applying individually or as a member of a Consortium, as the case may be, can be member of another Bidder. The term ‘Bidder’ used herein would apply to both a single entity and a Consortium.

A Bidder may be an Individual, Sole Proprietorship, Partnership firm, LLP under the Limited Liability Partnership Act, 2008 or a Company (Public or Private Ltd.) incorporated under the Companies Act 1956/2013 or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. All the entities shall be required to submit proof of their statutory registration/ incorporation as per their respective governing Statutes/ Acts. Consortium shall be eligible for consideration subject to the conditions set out in Clause 3.1.8.

- 3.2.2 An individual Bidder or a Consortium member shall not be allowed to be a member of any other Consortium.
- 3.2.3 The Bidder should be legally competent to enter into a contract as per prevailing Indian Laws. This RFP is not transferable.
- 3.2.4 Only those Bidders meeting Minimum Eligibility Criteria as per Clause 3.2.6 and other provisions of Volume-I: ITB of the RFP Document will be considered “Technically Qualified” for the Project.

3.2.5 Any entity which has been blacklisted or barred by the [Central/ State Government, PSUs or any entity controlled by it,] from participating in any project (PPP or otherwise), and the bar subsists as on the date of Application, would not be eligible to submit an Application, either individually or as member of a Consortium. **An undertaking / Affidavit in respect of this shall be enclosed.**

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

### 3.2.6 Minimum Eligibility Criteria

A Bidder should satisfy both **A. Technical Capacity** and **B. Financial Capacity**, as per this Clause 3.2.6, in order to meet and satisfy the minimum eligibility criteria ("Minimum Eligibility Criteria").

#### A. Technical Capacity

For demonstrating Technical Capacity, the Bidder shall be required to satisfy the Technical Capacity conditions below:

- I. **CRITERIA: A- HOSPITALITY EXPERIENCE-** The Bidder should have an experience of developing or owning or managing and operating hotel(s) / resort(s) property with a **minimum of 1000 keys** in aggregate, in any 12 consecutive months during the past 10 financial years preceding the Bid Due Date. In case the Bidders participating in Consortium, at least 1(one) member of the consortium should independently **meet the aggregate 1000 keys threshold.**

**OR**

- II. **CRITERIA: B – CONSTRUCTION EXPERIENCE –** The Bidder shall, over the past 10 (ten) financial years preceding the Bid Due Date, shall satisfy Technical Capacity Criteria as below:

1. Developed/paid for development of Eligible Project(s); (Real Estate and/ or Core Sector Projects)
- AND/OR**
2. Paid for or received payments for construction of Eligible Project(s); (Real Estate and/ or Core Sector Projects).

***such that the sum total of the above is more than INR 250 crore. (INR Two Hundred Fifty Crores)***

**Eligible Project(s)** shall mean the following

- i. **Real Estate projects** would include hotels / resorts, townships, convention centres, exhibition centres, commercial complex, community centres, commercial offices, clubs, banquets, retail high street / malls, residential etc. Real estate development shall not include residential flats unless they form part of a real estate complex or township which has been built by the applicant

- ii. **Core Sector projects** would include Power, Telecom, Ports, Airports, Roads and Highways, Railways, Metro Rail, Industrial parks/ estates, Logistic parks, Pipelines, Irrigation, Water supply, Sewerage, etc.
- iii. Projects in Real Estate/Core Sector with Project Cost of minimum **INR 50 crore** to qualify as an Eligible Projects
- iv. The project cost will not include the cost of land.

### Tie-up with Operator from Hospitality Sector

In the event that the applicant does not have the requisite Developing/Owning/ Operation & Maintenance/ Management experience of Hotels/Resorts i.e., bidders applying under Criteria B will be required to tie-up with any leading brand of a hospitality service provider with an overall portfolio of managing 1000 operational rooms as on the bid due date (“Operator O&M experience criteria”) and should satisfy the Criteria-A: Hospitality Experience, of its own.

- ▶ Affidavit/Declaration from the O&M operator of the Hospitality Sector as per Appendix -J, and requisite experience as per for Appendix E-1, Bid Response Sheet -1;
- ▶ Such O & M operator will not be eligible to participate in bid as single entity if it ties up with other bidder applying under Criteria B
- ▶ Such O&M operator’s Brand shall have to be onboarded at-least 6 months prior to the COD;
- ▶ The submission of the O&M Agreement will be condition precedent of the Concession Agreement.
- ▶ Such operator should be engaged in O&M of the project from COD to at least 5 years post COD (“Operator Lock in Period”).

### Format for submission

1. The Bidder should furnish details of technical capacity under **Criteria A as per Appendix E-1** Bid Response Sheet-1 and under **Criteria B as per E-1** Bid Response Sheet-2.
2. A certificate from appropriate authorities / clients certifying completion of the project, clearly showing project cost, size, scope of the Bidder and completion date.
3. In case of owned projects, certificate from an independent architect or a statutory auditor certifying the details.
4. In case of Eligible Projects awarded under **PPP / EPC mode**: Relevant pages of the work order / letter of award / contract / agreement. Relevant pages shall mean the Preamble of such contract / agreement detailing the parties, section containing information on project details like size / cost, and the last pages detailing the signatories.

## B. Financial Capacity

For the purpose of Financial Capacity, the Bidder shall be evaluated on the following:

- I. **NET WORTH** – The Bidder shall have a Net Worth of Rs. 150 Crores (Rupees One Hundred and Fifty crore only) at the closing of the preceding Financial Year before the Bid Due Date.

For the purposes of this RFP the term Net Worth means following:

**"Net Worth" for company** shall mean the sum of subscribed and paid-up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity shareholders.

**"Net Worth" for Partnership Firm** would mean: [Fixed Assets + Trade Receivables + Current Assets] – [Firms Loan + Current Liabilities]

**"Net Worth for Sole Proprietorship"** would mean: Total Assets- Total Liabilities

- II. TURNOVER** – Average Annual Turnover in 3 (three) years of last 5 (five) financial years i.e., 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 should be at least INR 250 crs (INR Two Hundred and Fifty Crore).

### Format for Submission

The Bidder should furnish details of Financial Capacity as per **Appendix E** and submit proofs specified therein.

### NOTE:

- I. The credentials of a Bidder's (or Consortium member's) **Associate(s)** shall also be considered for the purpose of satisfying Minimum Eligibility Criteria as per Clause 3.2.6.

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

It is clarified that a certificate from a qualified external auditor who audits the book of accounts of the Bidder shall be provided to demonstrate that a person is an Associate of the Bidder.

**II. In case of a Consortium**

- ▶ Technical Capacity of Consortium shall be calculated as a sum of Technical Capacities of individual Consortium Members who hold at least 26% equity stake in the consortium.
- ▶ Financial Capacity of Consortium shall be calculated as a sum of Financial Capacities of individual Consortium Members who hold at least 26% equity stake in the consortium.

The Bidders meeting the aforesaid minimum eligibility criteria shall be considered as "Eligible Bidders" and shall be marked as per the following technical marking criteria.

*Note: Minimum 75 marks will be required for technical qualification and financial bid will be opened only of those bidders who will qualify with minimum 75 marks after evaluation of technical presentation. The marking system of the technical presentation is as mentioned below*

### CRITERIA: A- Bidder with HOSPITALITY EXPERIENCE

Sl No	Criteria	Maximum Marks
A	Firm's Experience	40
B	Financial Capacity	30
C	Technical Presentation including Business Plan and market linkages	30
<b>TOTAL</b>		<b>100</b>

Sl No	Criteria	Maximum Marks
<b>A. Firm's Experience (Maximum Marks= 40)</b>		
1	Experience of developing or owning or managing and operating hotel(s) / resort(s) property, in any 12 consecutive months during the past 10 financial years preceding the Bid Due Date. <ul style="list-style-type: none"> <li>1000 keys in aggregate: 5 marks</li> <li>From 1001 keys to 2000 keys: 10 marks</li> <li>From 2001 keys to 3000 keys: 15 marks</li> <li>From 3001 keys to 5000 keys: 20 marks</li> <li>More than 5000 keys: 25 marks</li> </ul>	25
2	Operational experience of 5 Star Luxury Hotel/Resort (as approved my Ministry of Tourism) with minimum 50 keys/ lettable rooms – 5 Marks for 10 projects <ul style="list-style-type: none"> <li>For in each additional hotel/resorts experience - 1 Marks.</li> </ul> The operational experience of minimum 12 consecutive months during the last 5 financial years preceding the Bid Due Date.	15
<b>B. Financial Capacity (Maximum Marks= 30)</b>		
1	Net worth (as on 31 <sup>st</sup> March 2024): <ul style="list-style-type: none"> <li>INR 150 Crore up to INR 200 Crore (5 marks)</li> <li>More than INR 200 Crore &amp; up to INR 300 Crore (7.5 marks)</li> <li>More than INR 300 Crore &amp; up to INR 400 Crore (10 marks)</li> <li>More than 400 Crore&amp; up to INR 500 Crore (12.5 marks)</li> <li>More than INR 500 Crore (15 marks)</li> </ul>	15
2	Average Annual Turnover in 3 (three) years of last 5 (five) financial years i.e., 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 <ul style="list-style-type: none"> <li>INR 250 Crore up to INR 300 Crore (5 marks)</li> <li>More than INR 300 Crore &amp; up to INR 400 Crore (7.5 marks)</li> <li>More than INR 400 Crore &amp; up to INR 500 Crore (10 marks)</li> <li>More than 500 Crore &amp; up to INR 1000 Crore (12.5 marks)</li> <li>More than INR 1000 Crore (15 marks)</li> </ul>	15
<b>C. Technical Presentation including Project Implementation Plan, Business Plan and Market Linkages (Maximum Marks= 30)</b>		<b>30</b>
<b>TOTAL</b>		<b>100</b>



### CRITERIA: B – Bidder with CONSTRUCTION EXPERIENCE and Tie-up with Operator from Hospitality Sector

Sl No	Criteria	Maximum Marks
A-1	Operator's Experience (Hospitality Sector Tie up)	30
A-2	Construction Experience (Category B-1 or B-2)	20
B	Financial Capacity	20
C	Technical Presentation including Business Plan and market linkages	30
<b>TOTAL</b>		<b>100</b>

Sl No	Criteria	Maximum Marks
<b>A-1. Operator's Experience (Hospitality Sector Tie up) (Maximum Marks= 30)</b>		
1	Experience of developing or owning or managing and operating hotel(s) / resort(s) property, in any 12 consecutive months during the past 10 financial years preceding the Bid Due Date. <ul style="list-style-type: none"> <li>1000 keys in aggregate: 5 marks</li> <li>From 1001 keys to 2000 keys: 7.5 marks</li> <li>From 2001 keys to 3000 keys: 10 marks</li> <li>From 3001 keys to 5000 keys: 12.5 marks</li> <li>More than 5000 keys: 15 marks</li> </ul>	15
2	Operational experience of 5 Star Luxury Hotel/Resort (as approved my Ministry of Tourism) with minimum 50 keys/ lettable rooms – 5 Marks for 10 projects <ul style="list-style-type: none"> <li>For in each additional hotel/resorts experience - 1 Marks.</li> </ul> The operational experience of minimum 12 consecutive months during the last 5 financial years preceding the Bid Due Date.	15
<b>A-2. Construction Experience (Maximum Marks= 20)</b>		
1	<b>Construction Experience: (Clause 3.2.6, as applicable)</b> <ol style="list-style-type: none"> <li>Developed/paid for development of Eligible Project(s); (Real Estate and/ or Core Sector Projects) AND/OR</li> <li>Paid for or received payments for construction of Eligible Project(s); (Real Estate and/ or Core Sector Projects).</li> </ol> <ul style="list-style-type: none"> <li>INR 250 Crore up to INR 400 Crore (2.5 marks)</li> <li>More than INR 400 Crore &amp; up to INR 500 Crore (5 marks)</li> <li>More than INR 500 Crore &amp; up to INR 600 Crore (7.5 marks)</li> <li>More than 600 Crore (10 marks)</li> </ul>	10



Sl No	Criteria	Maximum Marks
2	<b>Construction Experience in NORTHEAST INDIA:</b> (Clause 3.2.6, as applicable and Projects to be executed/location to be Northeast India only) 1. Developed/paid for development of Eligible Project(s); (Real Estate and/ or Core Sector Projects) AND/OR 2. Paid for or received payments for construction of Eligible Project(s); (Real Estate and/ or Core Sector Projects).  <ul style="list-style-type: none"> <li>• INR 250 Crore up to INR 400 Crore (2.5 marks)</li> <li>• More than INR 400 Crore &amp; up to INR 500 Crore (5 marks)</li> <li>• More than INR 500 Crore &amp; up to INR 600 Crore (7.5 marks)</li> <li>• More than 600 Crore (10 marks)</li> </ul>	10
<b>B. Financial Capacity (Maximum Marks= 20)</b>		
1	Net worth (as on 31 <sup>st</sup> March 2024): <ul style="list-style-type: none"> <li>• INR 150 Crore up to INR 300 Crore (2.5 marks)</li> <li>• More than INR 300 Crore &amp; up to INR 500 Crore (5 marks)</li> <li>• More than INR 500 Crore &amp; up to INR 700 Crore (7.5 marks)</li> <li>• More than 700 Crore (10 marks)</li> </ul>	10
2	Average Annual Turnover in 3 (three) years of last 5 (five) financial years i.e., 2019-20, 2020-21, 2021-22, 2022-23 and 2023-24 <ul style="list-style-type: none"> <li>• INR 250 Crore up to INR 500 Crore (2.5 marks)</li> <li>• More than INR 500 Crore &amp; up to INR 750 Crore (5 marks)</li> <li>• More than INR 750 Crore &amp; up to INR 1000 Crore (7.5 marks)</li> <li>• More than 1000 Crore (10 marks)</li> </ul>	10
<b>C. Technical Presentation Project Implementation Plan, Business Plan and Market Linkages (Maximum Marks= 30)</b>		30
<b>TOTAL</b>		<b>100</b>

- The authority has the right to lower the Minimum technical experience score based on the applications received.

### 3.3 Proposal submitted by a Consortium

3.3.1 There can be a maximum of 3 (three) members in a Consortium.

3.3.2 In case of a Consortium, the combined (aggregate) Technical capacity & Financial capacity of those members, who shall have an equity share of at least 26% (twenty six percent) each in the SPV, should satisfy the above conditions of eligibility under clause 3.2.6; provided that each such member shall for a period of 5 (five) years from the date of commercial operations (COD), hold equity share capital not less than 26% of the subscribed and paid up equity of the SPV. However, the Lead Member nominated at the time of submission of the Proposal, shall continue to hold for the Concession Period with a minimum shareholding of 26% till the 10<sup>th</sup> anniversary of COD.

- 3.3.3 Any material changes in the membership of a Bidder will be rejected by the Authority. Proposals submitted by a Consortium must provide a written agreement (“**Consortium Agreement**”/ “**Joint Bidding Agreement**”) to be signed by each member in that Consortium which describes the responsibilities of each member in the Consortium. One of the Consortium members would be required to be nominated as Lead Member and the same shall also be mentioned in the Consortium/Joint Bidding Agreement.
- 3.3.4 Members of the Consortium shall be liable jointly and severally for the execution of the Project in accordance with the terms of the Agreement and a statement to this effect shall be included in the Consortium Agreement mentioned under this section, as well as in the Proposal and in the Agreement. The Authority may require such documents / undertakings / indemnities as it may deem fit from Consortium members before or at the time of issuance of Letter of Award / Signing of Agreement.
- 3.3.5 The representative of the Lead Member shall hold authorization in the form of Power of Attorney. The Proposal must designate one or more person(s) to represent the Bidder in its dealings with the Authority. Unless specifically advised to the contrary, Authority will assume that the person(s) designated is authorized to perform all tasks, including, but not limited to, providing information, responding to inquiries and entering into contractual commitments on behalf of the Company or the Consortium as the case maybe. Any and all limitations on the Authority of the designated person(s) should be detailed in the Proposal.
- 3.3.6 Members of the Consortium shall enter into a binding Joint Bidding/ Consortium Agreement, substantially in the form specified at Appendix-I (the “**Consortium Agreement**”/ **Joint Bidding Agreement**), for the purpose of making the Application and submitting a Bid in the event of being short-listed. The Jt. Bidding Agreement, to be submitted along with the Application, shall, inter alia:
- i. convey the intent to form an SPV with shareholding/ ownership equity commitment(s) in accordance with this RFP, which would enter into the Concession Agreement and subsequently perform all the obligations of the Concessionaire in terms of the Concession Agreement, in case the Project is awarded to the Consortium;
    - a) clearly outline the proposed roles and responsibilities, if any, of each member;
    - b) commit the minimum equity stake to be held by each member;
    - c) commit that each of the members, whose experience will be evaluated for the purposes of this RFP, shall subscribe to 26% (twenty six per cent) or more of the paid up and subscribed equity of the SPV and shall further commit that each such member shall, for a period of 5 (five) years from the date of commercial operation of the Project, hold equity share capital not less than: (i) 26% (twenty six per cent) of the subscribed and paid up equity share capital of the SPV;
    - d) commit that the Lead Member nominated at the time of submission of the Proposal, shall continue to hold for the Concession Period with a minimum shareholding of 26% till the 10<sup>th</sup> anniversary of COD.
    - e) include a statement to the effect that all members of the Consortium shall be liable jointly and severally for all obligations of the Concessionaire in relation to the Project until the

Financial Close of the Project is achieved in accordance with the Concession Agreement; and

- f) except as provided under this RFP and the Bidding Documents, there shall not be any amendment to the Jt. Bidding Agreement without the prior written consent of the Authority.

### **3.3.7 Change in composition of the Consortium**

3.3.7.1 Where the Bidder is a Consortium, change in composition of the Consortium may be permitted by the Authority during the Bid Stage, only where:

- a) the Lead Member continues to be the Lead Member of the Consortium;
- b) the substitute is at least equal, in terms of Technical Capacity or Financial Capacity, to the Consortium Member who is sought to be substituted and the modified Consortium shall continue to meet the pre-qualification and short-listing criteria for Applicants; and
- c) the new Members expressly adopts the Application already made on behalf of the Consortium as if it were a party to it originally and is not an Applicant/Member/ Associate of any other Consortium bidding for this Project.

3.3.7.2 Approval for change in the composition of a Consortium shall be at the sole discretion of the Authority and must be approved by the Authority in writing. The Bidder must submit its application for change in composition of the Consortium no later than 15 (fifteen) days prior to the Bid Due Date.

3.3.7.3 The modified/ reconstituted Consortium shall submit a revised Jt. Bidding Agreement and a Power of Attorney, substantially in the format as per Appendix, prior to the Bid Due Date.

### **3.4 Change in Ownership**

3.4.1 Subject to Clause 3.2, by submitting the Bid, the Bidder acknowledges that it was pre-qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members who shall, hold equity share capital of not less 26% of the subscribed and paid-up equity of the Concessionaire for a period of 5 years from COD, and thereafter the Lead Member must hold a minimum equity share capital of 26% of the subscribed and paid- up equity of the Concessionaire till the 10<sup>th</sup> anniversary of COD.

3.4.2 By submitting the Bid, the Bidder shall be deemed to have acknowledged and agreed that in the event of a change in control of an Associate whose Technical Capacity and/or Financial Capacity was taken into consideration for the purposes of short-listing and pre-qualification under and in accordance with this RFP, the Bidder shall be deemed to have knowledge of the same and shall be required to inform the Authority forthwith along with all relevant particulars about the same and the Authority may, in its sole discretion, disqualify the Bidder or withdraw the LOA from the Selected Bidder, as the case may be. In the event such change in control occurs after signing of the Concession Agreement, it would, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement, and the

same shall be liable to be terminated without the Authority being liable in any manner whatsoever to the Concessionaire. In such an event, notwithstanding anything to the contrary contained in the Concession Agreement, the Authority shall be entitled to forfeit and appropriate the Bid / Proposal Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement or otherwise.

### **3.5 Number of Bids and costs thereof**

- 3.5.1 Each Bidder shall submit only 1 (One) Bid/ Proposal. Violation of this shall lead to disqualification of the Bidder.
- 3.5.2 All Bidders are required to submit a detailed Proposal in accordance with the guidelines set forth in this RFP Document. The cost of preparation of Proposal and related expenses shall be borne by the Bidders themselves.

### **3.6 Site visit and verification of information**

- 3.6.1 Bidders are encouraged to submit their respective Applications after visiting the Project site and ascertaining for themselves the site conditions, traffic, location, surroundings, climate, availability of power, water and other utilities for construction, access to site, handling and storage of materials, weather data, applicable laws and regulations, and any other matter considered relevant by them.
- 3.6.2 It shall be deemed that by submitting a Bid, the Bidder has:
  - a. made a complete and careful examination of the Bidding Documents;
  - b. received all relevant information requested from the Authority;
  - c. accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in this RFP;
  - d. satisfied itself about all matters, things and information including matters referred to in Clause 3.6 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations thereunder;
  - e. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 3.6 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from the Authority, or a ground for termination of the Concession Agreement by the Concessionaire;
  - f. acknowledged that it does not have a Conflict of Interest; and
  - g. agreed to be bound by the undertakings provided by it under and in terms hereof.
- 3.6.3 The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to RFP, the Bidding

Documents or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

### **3.7 Verification and Disqualification**

3.7.1 The Authority reserves the right to verify all statements, information and documents submitted by the Bidder in response to the RFP and the Bidder shall, when so required by the Authority, make available all such information, evidence and documents as may be necessary for such verification. Any such verification or lack of such verification, by the Authority shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

3.7.2 The Authority reserves the right to reject any Bid and appropriate the Bid Security if:

(a) at any time, a material misrepresentation is made or uncovered, or

(b) the Bidder does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Bid.

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

i) invite the remaining Bidders to submit their Bids in accordance with Clauses 4.3; or

(ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding Process.

3.7.3 In case it is found during the evaluation or at any time before signing of the Concession Agreement or after its execution and during the period of subsistence thereof, including the Concession thereby granted by the Authority, that one or more of the pre-qualification conditions have not been met by the Bidder, or the Bidder has made material misrepresentation or has given any materially incorrect or false information, the Bidder shall be disqualified forthwith if not yet appointed as the Concessionaire either by issue of the LOA or entering into of the Concession Agreement, and if the Selected Bidder has already been issued the LOA or has entered into the Concession Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFP, be liable to be terminated, by a communication in writing by the Authority to the Selected Bidder or the Concessionaire, as the case may be, without the Authority being liable in any manner whatsoever to the Selected Bidder or Concessionaire.

In such an event, the Authority shall be entitled to forfeit and appropriate the Bid Security or Performance Security and Upfront Premium, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.

### **3.8 Right to accept or reject any or all Bids/ Bids**

3.8.1 Notwithstanding anything contained in this RFQ, the Authority reserves the right to accept or reject any Application and to annul the Bidding Process and reject all Applications/ Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and

without assigning any reasons therefor. In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.

## **B. Documents**

### **3.9 Contents of the RFP**

- 3.9.1 This RFP comprises the Disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 3.11.

#### **Instruction to Bidders (ITB)**

- Section 1: Invitation for Proposal
- Section 2: Project Details
- Section 3: Instructions for Bidding
- Section 4: Evaluation of Bids
- Section 5: Fraud and Corrupt Practices
- Section 6: Pre-Bid Conference
- Section 7: Miscellaneous

#### **Appendices**

- A – Letter of Bid & Interest
- B – General Information of the Bidder
- C – Affidavit
- D1 – Format for Power of Attorney for Authorized Signatory
- D2 – Format of Power of Attorney by each Member of Consortium in favour of Lead Member
- E – Minimum Eligibility Criteria
- F – Acknowledgement Letter (to be submitted by each Member of Consortium)
- G – Statement of Legal Capacity
- H – Format of Bank Guarantee towards Bid / Proposal Security
- I – Draft Consortium Agreement
- J – Format for O & M Undertaking
- K – Format for Financial Proposal

*The draft Concession Agreement, along with Schedules, provided by the Authority as part of the Bidding Documents shall be deemed to be part of this RFP.*

### **3.10 Clarifications**

- 3.10.1 Bidders requiring any clarification on the RFP may notify the Authority in writing by speed post/ courier/ e-mail at the address provided in Clause 1.4. They should send in their queries on or before the date mentioned in the Schedule of Bidding Process specified in Clause 1.2. The

responses will be published online on the website only. The Authority will publish all the queries and its responses thereto on the website without identifying the source of queries.

3.10.2 The Authority shall endeavour to respond to the questions raised or clarifications sought by the Bidders. However, the Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring the Authority to respond to any question or to provide any clarification.

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

### **3.11 Amendment of RFP**

3.11.1 At any time prior to the Bid / Proposal Due Date, Authority may for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the RFP Document through the issuance of Addenda.

3.11.2 Any Addendum and Corrigendum thereto, thus issued shall be part of the RFP and shall be published online only. The Authority will assume no responsibility for receipt of the Addendum and Corrigendum.

3.11.3 To give prospective Bidders reasonable time in which to take any Addendum and/or Corrigendum into account in preparing their Bids, the Authority may, at its sole discretion, extend the Due Date.

## **C. Preparation and Submission of Bid**

### **3.12 Language**

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

3.12.2 Any currency for the purpose of the Proposal / Bid shall be in form of Indian National Rupee (INR).

### **3.13 Format and signing of Bid**

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

3.13.2 The Bid shall be typed or written in indelible ink and signed by the authorized signatory of the Bidder who shall also initial each page, in blue ink. In case of printed and published documents,



only the cover shall be initialled. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid.

### 3.14 Sealing, Marking and Submission Proposals /Bids

The proposal shall be submitted in 2 (Two) parts in 2 (Two) separate envelopes/packages put together in 1 (one) single outer envelope. The outer envelope should be superscribed with the Bidder Name and Bid Number.

#### 3.14.1 Submission of Bid

The Proposals shall be sealed, marked and submitted as explained below:

**The 2 parts (collectively referred to as ‘Proposal’) shall be:**

##### **Part-A: Technical Proposal.**

Part 1, the “Technical Proposal” should have the following documents.

- a. Bid / Proposal Security and the receipt of online payment of Bid Document Fee
- b. Letter of Application and Interest (As per Format A);
- c. General Information of the Bidder (As per Format B);
- d. Affidavit (As per Format C);
- e. Power of Attorney for Authorized Signatory (As per Format D1);
- f. Power of Attorney by each Member of the Consortium in favour of Lead Member (As per Format D2), if applicable.
- g. Minimum Eligibility Criteria (As per Format E);
- h. Acknowledgement (As per Format F);
- i. Statement of Legal Capacity (As per Format G);
- j. Consortium Agreement (As per Format I), if applicable.
- k. O & M undertaking (As per format J), if applicable
- l. Supporting documents (duly signed) such as:
  - i. Certificate of Registration / Incorporation
  - ii. Annual Reports and Audited financial statements for last 5 financial years (FY 24, FY23, FY22, FY21 and FY19 )
  - iii. Supporting documents to support Technical Capacity (as per Clause 3.2.6)

##### **Part 2- Financial Proposal**

The Part 2, the “Financial Proposal” should be submitted as per the format for Financial Bid given in APPENDIX-K: Format for Financial Proposal.

Note:

- a. **Financial Proposal shall not be submitted with Part-1, and if submitted, the bid will be rejected.**
- b. All the above envelopes shall be enclosed in an outer cover / envelope marked as **“Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP).**



c. The Envelope shall be addressed to:

The Director of Tourism  
Department of Tourism, Govt of Meghalaya  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India  
Phone No : +91 73089 52956

The hard copies / physical bid shall be submitted to the above address on or above the Bid Due Date as per Clause 1.2. It is being clarified here that the information as asked from the Bidder should be in the format as provided.

If the envelope is not sealed and marked, as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the Proposal submitted. In that case, the prematurely opened Proposals will be rejected.

Any Proposal received by the Authority after the Proposal / Bid Due Date will be liable for rejection.

#### 3.14.2 Submission Formats

- a) The Technical proposal (Part A) and Financial Proposal (Part B) must be inserted in separate sealed envelopes, along with bidder's name and address on the envelope and clearly marked as follows:

##### **Part-A:**

##### **Technical proposal for**

**"DEVELOPMENT, OPERATION AND MAINTENANCE OF 5 STAR LUXURY RESORT, LOCATED AT SOHRA, CHERRAPUNJEE, EAST KHASI HILLS DISTRICT, MEGHALAYA UNDER DESIGN, BUILD, FINANCE, OPERATE AND TRANSFER (DBFOT) MODE ON PUBLIC PRIVATE PARTNERSHIP (PPP)"**

##### **Part-B:**

##### **Financial proposal for**

**"DEVELOPMENT, OPERATION AND MAINTENANCE OF 5 STAR LUXURY RESORT, LOCATED AT SOHRA, CHERRAPUNJEE, EAST KHASI HILLS DISTRICT, MEGHALAYA UNDER DESIGN, BUILD, FINANCE, OPERATE AND TRANSFER (DBFOT) MODE ON PUBLIC PRIVATE PARTNERSHIP (PPP)"**

Both the envelopes i.e. envelope for Part-A and Envelope for Part-B must be packed in a separate sealed outer cover and clearly super scribed with the following:

##### **Proposal for**

**"DEVELOPMENT, OPERATION AND MAINTENANCE OF 5 STAR LUXURY RESORT, LOCATED AT SOHRA, CHERRAPUNJEE, EAST KHASI HILLS DISTRICT, MEGHALAYA UNDER DESIGN, BUILD, FINANCE, OPERATE AND TRANSFER (DBFOT) MODE ON PUBLIC PRIVATE PARTNERSHIP (PPP)"**

The Bidder's Name & address shall be mentioned in the left-hand corner of the outer envelope. The inner and outer envelopes shall be addressed to the following address:

The Director of Tourism  
Department of Tourism, Govt of Meghalaya

3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India  
Phone No : +91 73089 52956

Note:

- i. If the outer envelope and the financial proposal envelope is not sealed and marked as mentioned above, then Authority will assume no responsibility for the tender's misplacement or premature opening. Telex, cable or facsimile tenders will be rejected.
- ii. Any deviation from the prescribed procedures / information / formats / conditions shall result in out-right rejection of the proposal. All the pages of the proposal have to be signed by the authorized representative of the bidder. Bids with any conditional offer shall be out rightly rejected. All pages of the proposal must have to be sealed and signed by the authorized representative of the bidder. Any conditional bids will be rejected.

### 3.15 Late Bids

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

### 3.16 Modifications/ Substitution/ Withdrawal of Bids

The Bidder may modify, substitute or withdraw its Bid after submission, provided that written notice of the modification, substitution or withdrawal is received by the Authority prior to the Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.

The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 3.14, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

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

### 3.17 Rejection of Bids

Notwithstanding anything contained in this RFP, the Authority reserves the right to reject any Bid or to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In the event that the Authority rejects or annuls all the Bids, it may, in its sole discretion, invite all eligible Bidders to submit fresh Bids hereunder.

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

### 3.18 Validity of Bids

The Proposal shall remain valid for a period not less than 180 (one hundred and eighty) days from the Proposal Due Date (the "Proposal Validity Period"). The Authority reserves the right to reject any Proposal that does not meet this requirement. Validity of Bid Security shall be extended for a specified additional period at the request of the Authority to the Bidder.

A Bidder agreeing to the request will not be allowed to modify his Proposal but would be required to extend the validity of his Bid / Proposal Security for the period of extension.

Upon the extension, the Proposal Validity Period for the Proposal / Bid Security submitted by the Selected Bidder shall be extended till the date of execution of the Concession Agreement.

### 3.19 Confidentiality

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

### 3.20 Correspondence with the Bidder

Save and except as provided in this RFP, the Authority shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

## D. Bid / Proposal Security

### 3.21 Bid / Proposal Security

The Bid / Proposal shall be accompanied by a Bid / Proposal Security for a value of **INR 2.95 Crore (Rupees Two Crore and Ninety-Five Lakhs Only)** (as per Appendix A – Letter of Bid).

Any Proposal submitted without the Bid / Proposal Security or not in the form as specified in the RFP Document shall be declared as non-responsive and shall be summarily rejected.

The Authority shall not be liable to pay any interest on the Bid / Proposal Security.

The Bid Security shall be forfeited as Damages without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or under the Concession Agreement, or otherwise, under the following conditions:

- a) If a Bidder submits a non-responsive Bid;
- b) If a Bidder engages in a corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice as specified in Clause 4 of this RFP;
- c) If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by mutual consent of the respective Bidder(s) and the Authority;
- d) In the case of Selected Bidder, if it fails within the specified time limit -
  - i. to sign and return the duplicate copy of LOA;
  - ii. to sign the Concession Agreement; or
  - iii. to furnish the Performance Security within the period prescribed therefor in the Concession Agreement; or

- e) In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Performance Security.

**Note:**

*Bid / Proposal Security of only H1, H2 & H3 Bidders would be retained till the Concession Agreement is signed between the Selected Bidder and the Authority. The Bid / Proposal Security of other Bidders would be returned, without interest, within 60 (Sixty) day of opening of Financial Proposals.*

*The Bid / Proposal Security of the Selected Bidder will be retained till the later of*

- i. signing of Concession Agreement between the Selected bidder and the Authority, or*
- ii. submission of Performance Security.*

### **3.22 Performance Security**

The Selected Bidder, for due and faithful performance of its obligations under the Concession Agreement, shall be required to provide **“Performance Security”** as per Article 9 of the Draft Concession Agreement.

### **3.23 Proprietary data**

All documents and other information supplied by the Authority or submitted by an Applicant to the Authority shall remain or become the property of the Authority. Applicants are to treat all information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Application. The Authority will not return any Application or any information provided along therewith.

## 4. EVALUATION OF BIDS

### 4.1 Opening and Evaluation of Bids

The received Technical Proposals shall be opened, by the tender opening committee of the Authority, in presence of the Bidders at scheduled time on the Bid Due Date, unless intimated otherwise. The date for opening of Financial Proposals shall be intimated in advance to the Technically Qualified Bidders.

The Authority, reserves the right to reject any Proposal, if

- b) It is not signed, sealed and marked as stipulated in Clause 3.14.
- c) The information and documents have not been submitted as requested and in the formats specified in the RFP Document.
- d) There are inconsistencies between the Proposal and the supporting documents.
- e) It does not mention the Proposal Validity Period as set out in Clause 3.18.
- f) There are conditions proposed with the Proposal.
- g) It provides the information with material deviations.

For avoidance of doubt, a material deviation or reservation is one:

- a) Which affects in any substantial way, the scope, quality, or performance of the Project, or
- b) Which limits in any substantial way, inconsistent with the RFP Document, the Authority's rights or the Bidder's obligations, or
- c) Which would affect unfairly the competitive position of other Bidders' presenting substantially responsive bids.

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

No request for modification or withdrawal shall be entertained by the Authority in respect of such Proposals.

The evaluation and award shall be done in 3 (three) steps as explained below:

#### Step 1 – Qualification and Shortlisting

**Step 1A:** Proposals shall be tested for responsiveness as per Test of Responsiveness in Clause 4.2.

**Step 1B:** The Bid / Proposal Security in Envelope–1 shall be checked. Proposals without Bid / Proposal Security shall be rejected.

**Step 1C:** The submission(s) in Envelope–2 shall be checked.

- ▶ The Technical Capacity and Financial Capacity of the Bidder should be sufficient as per Clause 3.2.6 of this RFP.
- ▶ The bidders meeting the minimum eligibility conditions shall be evaluated based on the technical marking criteria laid down under clause 3.2.6 of this RFP wherein a technical presentation of the proposed project shall be made by the respective bidders to the Authority.
- ▶ The Proposals not meeting the prescribed criteria as per Clause 3.2.6 will be rejected outright. All Bidders passing Step–I of the evaluation by meeting the minimum eligibility

criteria and with technical marking above the threshold limit will be considered as Technical Qualified Bidders and shall be considered for the next stage.

All Bidders passing Step-I of the evaluation will be considered as Technical Qualified Bidders and shall be considered for the next stage.

## **Step – 2: Financial Proposal Evaluation and Selection**

The Financial Proposals of only those Bidders who have passed Step-1 shall be opened in presence of the nominees of the Authority and Bidders. The Highest Bidder shall be declared as the Selected Bidder / Successful Bidder. Financial Proposals of Bidders who do not qualify the Step-I of evaluation shall not be opened. In this RFP, the term “Highest Bidder” shall mean the Bidder who is offering the highest Bid Variable. Bidders shall be ranked H1, H2, H3, etc. in decreasing order of their financial offers, with H1 being the Bidder quoting the highest Bid Variable. In case two Bidders quote the same Bid Variable, the Bidder having highest technical score will be considered as the Highest Bidder.

### **4.2 Tests of responsiveness**

Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of this RFP. A Bid shall be considered responsive if:

- a) it is received as per the formats attached in Appendices;
- b) it is received by the Bid Due Date including any extension thereof pursuant to Clause 1.2;
- c) it is signed, sealed, bound together in hard cover and marked as stipulated in Clause 3.14;
- d) it is accompanied by the Bid / Proposal Security as specified in Clause 3.21;
- e) it is submitted as required in the RFP;
- f) it contains all the information (complete in all respects) as requested in this RFP and/or Bidding Documents (in formats same as those specified);
- g) it does not contain any condition or qualification; and
- h) it is not non-responsive in terms hereof.

The Authority reserves the right to reject any Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be entertained by the Authority in respect of such Bid. Provided, however, that the Authority may, in its discretion, allow the Bidder to rectify any infirmities or omissions if the same do not constitute a material modification of the Bid.

### **4.3 Selection of Bidder**

Subject to the provisions of Clause 3.13, the Bidder whose Bid is adjudged as responsive in terms of Clause 4.2, who meets the Eligibility Criteria as per Section 3.2.6 and who is declared as the Highest Bidder as per Section 2.6.b., shall ordinarily be declared as the selected Bidder (the “Selected Bidder” or “Successful Bidder”). In the event that the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder

In the event that two or more Bidders quote the same amount of Bid Variable (the “Tie Bidders”), the Authority shall select the Bidder basis process outlined in Clause 4.1. In the event that the Highest Bidder withdraws or is not selected for any reason in the first instance (the “first round of bidding”), the Authority may either cancel the bid process or alternately, invite all the remaining Bidders to revalidate or extend their respective Bid / Proposal Security, as necessary,



and match the Bid of the aforesaid Highest Bidder (the “second round of bidding”). If in the second round of bidding, only one Bidder matches the Highest Bidder, it shall be the Selected Bidder. If two or more Bidders match the said Highest Bidder in the second round of bidding, then the Bidder whose Bid was higher as compared to other Bidder(s) in the first round of bidding shall be the Selected Bidder. For example, if the third and fifth highest Bidders in the first round of bidding offer to match the said Highest Bidder in the second round of bidding, the said third highest Bidder shall be the Selected Bidder.

In the event that no Bidder offers to match the Highest Bidder in the second round of bidding as specified above, the Authority may, in its discretion, invite fresh Bids (the “third round of bidding”) from all Bidders except the Highest Bidder of the first round of bidding, or annul the Bidding Process, as the case may be. In case the Bidders are invited in the third round of bidding to revalidate or extend their Bid / Proposal Security, as necessary, and offer fresh Bids, they shall be eligible for submission of fresh Bids provided, however, that in such third round of bidding only such Bids shall be eligible for consideration which are higher than the Bid of the second highest Bidder in the first round of bidding.

After selection, a Letter of Award (the “LOA”) shall be issued, in duplicate, by the Authority to the Selected Bidder and the Selected Bidder shall, within 7 (seven) days of the receipt of the LOA, sign and return the duplicate copy of the LOA in acknowledgement thereof. In the event the duplicate copy of the LOA duly signed by the Selected Bidder is not received by the stipulated date, The Authority may, unless it consents to extension of time for submission thereof, appropriate the Bid / Proposal Security of such Bidder as Damages on account of failure of the Selected Bidder to acknowledge the LOA, and the next eligible Bidder may be considered.

After acknowledgement of the LOA as aforesaid by the Selected Bidder, the Authority shall cause the Concessionaire to execute the Concession Agreement within the period prescribed in Clause 1.2. The Selected Bidder shall not be entitled to seek any deviation, modification or amendment in the Concession Agreement.

#### **4.4 Avoidance of Contact during Bid Evaluation**

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

#### **4.5 Bids of other Bidders**

The Authority shall return the Bid/ Proposal Security received from the Bidders who have not qualified in Step-I of the evaluation, within 60 (sixty) days of opening of the Technical Proposal. The Bid / Proposal Security shall be returned without payment of any interest.

## 5. FRAUD AND CORRUPT PRACTICES

### 5 Fraud and Corrupt Practices

The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the LOA and during the subsistence of the Concession Agreement. Notwithstanding anything to the contrary contained herein, or in the LOA or the Concession Agreement, the Authority may reject a Bid, withdraw the LOA, or terminate the Concession Agreement, as the case may be, without being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be, if it determines that the Bidder or Concessionaire, as the case may be, has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process. In such an event, the Authority shall be entitled to forfeit and appropriate the Bid / Proposal Security or Performance Security, as the case may be, as Damages, without prejudice to any other right or remedy that may be available to the Authority under the Bidding Documents and/ or the Concession Agreement, or otherwise.

Without prejudice to the rights of the Authority under Clause 5 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, or otherwise if a Bidder or Concessionaire, 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 Bidding Process, or after the issue of the LOA or the execution of the Concession Agreement, such Bidder or Concessionaire shall not be eligible to participate in any tender or RFP issued by the Authority during a period of 2 (two) years from the date such Bidder or Concessionaire, 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 practices, as the case may be.

For the purposes of this clause, 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 Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the Concession Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process);
- b) “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process;
- c) “coercive practice” means impairing or harming, or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;
- d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any

manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

- e) “restrictive practice” means forming a cartel or arriving at any understanding or arrangement among Bidders with the objective of restricting or manipulating a full and fair competition in the Bidding Process.

## 6. PRE-BID CONFERENCE

Pre-Bid Conference for the interested Bidders shall be convened at the designated date, time and place. A maximum of two representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.

During the course of Pre-Bid Conference, the Bidders will be free to seek clarifications and make suggestions for consideration of the Authority. The Authority shall endeavour to provide clarifications and such further information as it may, in its sole discretion, consider appropriate for facilitating a fair, transparent and competitive Bidding Process.

The Bidders should send in their queries prior to the Pre-Bid Conference date specified in the Schedule 1.2 of the RFP. Authority shall endeavour to respond to the queries within the period specified therein. Any query received after the Pre-Bid Conference shall not be entertained.

**“Queries concerning RFP for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP) ”**

Sl No	Clause/Page No.	Content of the RFP requiring clarifications	Change/clarification Requested
1			
2			
3			

Authority shall endeavor to respond to the questions raised or clarifications sought by the Bidders. However, Authority reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause shall be taken or read as compelling or requiring Authority to respond to any question or to provide any clarification.

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

## **7. MISCELLANEOUS**

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

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

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

It shall be deemed that by submitting the Bid, the Bidder agrees and releases the Authority, its employees, agents and advisers, irrevocably, unconditionally, fully and finally from any and all liability for claims, losses, damages, costs, expenses or liabilities in any way related to or arising from the exercise of any rights and/ or performance of any obligations hereunder, pursuant hereto and/ or in connection with the Bidding Process and waives, to the fullest extent permitted by applicable laws, any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or in future.

## 8. APPENDICES

### APPENDIX-A. Letter of Bid & Interest

(To be signed and submitted by the Bidder's authorized signatory on Bidder's Letter Head)

To,  
The Director of Tourism,  
Directorate of Tourism, Govt of Meghalaya  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India

Subject: **RFP for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)**

Dear Sir,

1. With reference to your RFP document dated \*\*\*\*\*, I/we, having examined the Bidding Documents and understood their contents, hereby submit my/our Bid(s) for the aforesaid Project. The Bid(s) is(/are) unconditional and unqualified.
2. I/We offer a Bid Security of ..... (Rupees ..... ) to the Authority.
3. I /We acknowledge that **Tourism Department, Government of Meghalaya** , hereinafter called 'the Authority' will be relying on the information provided in the Bid and the documents accompanying the Bid for selection of the Concessionaire for the aforesaid Project, and we certify that all information provided therein is true and correct: nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are true copies of their respective originals.
4. This statement is made for the express purpose of our selection as Concessionaire for the aforesaid Project.
5. I/We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
6. I/We acknowledge the right of the Authority to reject our Bid without assigning any reasons or otherwise and hereby waive, to the fullest extent permitted by applicable law, our right to challenge the same on any account whatsoever.
7. I/We certify that in the last three years, we / any of our Consortium Members or our/ their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project of contract by any public authority nor have had any contract terminated by any public authority for breach on our part.



8. I/We declare that:
- a. I/We have examined and have no reservations to the Bidding Documents, including any Addendum issued by the Authority; and*
  - b. I/We do not have any conflict of interest in accordance with the RFP document; and*
  - c. I/We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Section 5 of the RFP document, in respect of any tender or request for Proposal issued by or any agreement entered into with the Authority or any other public-sector enterprise or any government, Central or State; and*
  - d. I/We confirm that I/we are not blacklisted with any Ministry or Department of the Central Government, or by any of the State Governments / UT as on date. We further confirm that we will inform the Authority immediately in case of any change in this situation.; and*
  - e. I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Section 5 of the RFP, no person acting for us or on our behalf has engaged or will engage in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice; and*
  - f. the undertakings given by us along with the Application in response to RFP for the Project were true and correct as on the date of making the Application and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them*
9. I /We understand that you may cancel the Bidding Process at any time and that you are neither bound to accept any Bid that you may receive nor to invite the Bidders to Bid for the Project, without incurring any liability to the Bidders, in accordance with the terms and conditions of the RFP.
10. The Authority and its authorized representatives are hereby authorized to conduct any inquiries / investigation to verify the statements, documents and information submitted in connection with the Bid and to seek clarification from our banker regarding any financial and technical aspects. This letter of Bid will also serve as authorization to any individual or authorized representative of any institution referred to the supporting information, to provide such information deemed necessary as requested by yourselves to verify statements and information provided in the Bid or with regard to the resources, experience and competence of the Bidder.
11. I/We believe that I/we satisfy the Technical Capacity and Financial Capacity for the Project, and meet the requirements as specified in the RFP document.
12. I /We declare that we/any Member of the Consortium, or out/its Associates are not a Member of a/any other Consortium submitting a Bid for the Project.

13. I/We certify that in regard to matters other than security and integrity of the country, we/any Member of the Consortium or any of our/their Associates have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
14. I/We further certify that in regard to matters relating to security and integrity of the county, we/any Member of the Consortium or any of our/their Associate have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
15. I/We further certify that no investigation by a regulatory authority is pending either against us or against our Associates or against our CEO or any of our directors/managers/employees.
16. I/We undertake that in case due to any change in fact or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
17. {I/We acknowledge and undertake that our Consortium will be selected based on the basis of Technical Capacity and Financial Capacity of those of its Members who shall hold equity share capital of not less than 26% (Lead Member and Non-Lead Member respectively) of the subscribed and paid-up equity of the Concessionaire for a period of 5 years from COD, and thereafter the Lead Member must hold a minimum equity share capital of 26% of the subscribed and paid-up equity of the Concessionaire till the 10th anniversary of COD.} We further agree and acknowledge that the aforesaid obligation shall be in addition to the obligations contained in the Concession Agreement in respect of Change in Ownership
18. I /We acknowledge and agree that in the event of a change in control of Associates whose Technical Capacity and/or Financial Capacity was taken into consideration for the purposes of selection under and in accordance with the RFP, I/We shall inform the Authority forthwith along with all relevant particulars and the Authority may, in its sole discretion, disqualify us or withdraw the Letter of Award, as the case may be. I/We further acknowledge and agree that in the event such change in control occurs after signing of the Concession Agreement but prior to Financial Close of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach of thereof and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
19. I/We understand that the Selected Bidder shall either be an existing Company incorporated under the Indian Companies Act, or shall incorporate prior to execution of the Concession Agreement.
20. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Bidding

Process itself, in respect of the above-mentioned Project and the terms and implementation thereof.

21. In the event of my/our being declared as the Selected Bidder, I/we agree to enter into a Concession Agreement in accordance with the draft that has been provided to me/us prior to the Bid Due Date. We agree not to seek any changes in the aforesaid draft and agree to abide by the same.
22. I /We have studied all the Bidding Documents carefully and also visited the Project. We understand that except to the extent as expressly set forth in the Concession Agreement, we shall have no claim, right or title arising out of any documents or information provided to us by the Authority or in respect of any matter arising out of or relating to the Bidding Process including the award of Concession.
23. The Bid / Proposal Security is enclosed in the Envelope–1 marked “Bid / Proposal Security”.
24. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I /We shall have any claim or right of whatsoever nature if the Project/Agreement is not awarded to me/us or our Bid is not opened or rejected.
25. The Bid Variable has been quoted by me/us after taking into consideration all the terms and conditions stated in the RFP, draft Concession Agreement, our own estimates of cost and demand and after a careful assessment of the site and all the conditions that may affect the project cost and implementation of the Project.
26. I/We agree and undertake to abide by all the terms and conditions of the RFP document.
27. I/We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP or extension thereof as per the RFP.
28. We, the Consortium Members agree and undertake to be jointly and severally liable for all the obligations of the Concessionaire under the Concession Agreement till occurrence of Financial Close in accordance with the Concession Agreement.

Authorized signatory

Date:

Name and seal of Bidder

Place:

**Note:** In case the Bidder is not a consortium, please delete the applicable clauses related to Consortium.

## APPENDIX-B. General Information of the Bidder

(To be printed on A4 paper and signed by the Bidder's authorized signatory)

1. Details of Bidder (To be given separately by each Consortium member, in case the Bidder is a Consortium)
  - a. Name:
  - b. Legal Status:
  - c. Country of incorporation:
  - d. Address of the corporate headquarters (if any) in India:
  - e. Year of Incorporation:
2. Details of individual(s) who will serve as the point of contact / communication for the Authority within the Company:
  - a. Name:
  - b. Designation:
  - c. Company:
  - d. Address:
  - e. Telephone Number and Fax Number:
  - f. E-Mail Address:
3. Brief description of the entity including details of its main lines of business and proposed role and responsibilities in this Project:
4. In case of Consortium:
  - a. Information above (1 -3) should be provided for all the members of the Consortium.
  - b. Information regarding role of each member should be provided:

Sl No	Name of Member	Equity Stake	Role*
1			
2			
3			
4.			

\* Specify whether Lead Member / Ordinary Member

5. Details of Associates, whose credentials are counted as part of Minimum Eligibility Criteria:
6. The following information shall also be provided for Bidder/each member of the Consortium/ Associates:

Sl No	Criteria	Yes	No
1	Has the Bidder/ Consortium Member/Associate been barred by the [Central/ State Government, or any entity controlled by it,] from participating in any project (PPP or otherwise), and the bar subsists as on the date of Application,		

Sl No	Criteria	Yes	No
2	If the answer to 1 is yes, does the bar subsist as on the date of Bid?		
3	Applicant including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant, Consortium Member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated any public entity for breach by such Applicant, Consortium Member or Associate.		

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

Signed by:  
 (Name of the Authorised Signatory) For and on behalf of  
 (Name of the Bidder)  
 Designation  
 Place:  
 Date:

## APPENDIX-C. Affidavit

(To be executed on a Stamp Paper of INR 100; To be Notarized)

(To be given separately by each Consortium member, in case the Bidder is a Consortium)

I, \_\_\_\_\_, s/o \_\_\_\_\_, resident of \_\_\_\_\_, the \_\_\_\_\_ (insert designation) of the \_\_\_\_\_ (insert name of the Bidder), do solemnly affirm and state as follows:

1. That I am the authorized signatory of \_\_\_\_\_ (insert name of Company/ Consortium) (hereinafter referred to as **"Bidder / Consortium Member"**) and I am duly authorized by the bidder organization / Consortium to swear and depose this Affidavit on behalf of the bidder organization / Consortium.
2. That I have submitted information with respect to our eligibility for the Request for Proposal (RFP) for **RFP for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)** (hereinafter referred to as **"Project"**) and I further state that all the said information submitted by us is accurate, true and correct and is based on our records available with us.
3. That, we hereby also authorize and request any bank, authority, person or firm to furnish any information, which may be requested by the Authority to verify our credentials / information provided by us under this tender and as may be deemed necessary by the Authority.
4. That if any point of time including the Concession Period, in case of the Authority, requests any further / additional information regarding our Financial and / or Technical capabilities, or any other relevant information, we shall promptly and immediately make available such information accurately and correctly to the satisfaction of the Authority.
5. That, we fully acknowledge and understand that furnishing of any false or misleading information by us in our RFP shall entitle us to be disqualified from the tendering process for the said Project. The costs and risks for such disqualification shall be entirely borne by us.
6. That all the terms and conditions of the Request for Proposal (RFP) Document have been duly complied with.

### DEPONENT

(Name, Designation and Address)

### VERIFICATION:

I, the above-named deponent, do verify that the contents of paragraphs 1 to 6 of this affidavit are true and correct to my knowledge. No part of it is false and nothing material has been concealed.

Verified at \_\_\_\_\_, on this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

### DEPONENT

(Name, Designation and Address)



## APPENDIX-D. Power of Attorney

### APPENDIX-D-1: Format for Power of Attorney for Authorized Signatory

(To be executed on a Stamp Paper of INR 100; To be Notarized)

Know all men by these presents, We \_\_\_\_\_ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorize Mr/ Ms (name), \_\_\_\_\_ son/daughter/wife \_\_\_\_\_ and presently residing at \_\_\_\_\_, who is [presently employed with us/ the Lead Member of our Consortium and holding the position of \_\_\_\_\_], as our true and lawful attorney (hereinafter referred to as the **“Attorney”**) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our Bid to Tourism Department, Government of Meghalaya (**“Authority”**) for **RFP for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)** (the **“Project”**) proposed or being developed by the Authority including but not limited to signing and submission of all Bids and other documents and writings, participate in Pre-Bids and other conferences and providing information/ responses to the Authority, representing us in all matters before the Authority, signing and execution of all contracts including the Concession Agreement and undertakings consequent to acceptance of our Bid, and generally dealing with the Authority in all matters in connection with or relating to or arising out of our Bid for the said Project and/ or upon award thereof to us and/or till the entering into of the Concession Agreement with the Authority.

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

IN WITNESS WHEREOF WE, \_\_\_\_\_, THE ABOVE NAMED PRINCIPAL HAVE EXECUTED

THIS POWER OF ATTORNEY ON THIS \_\_\_\_ DAY OF \_\_\_\_\_, 20\*\*

For.....

Accepted

..... (Signature)

(Name, Title and address) of the Attorney

**Note:**

- i. *To be executed by the sole Bidder or the Lead Member in case of a Consortium as the case may be.*
- ii. *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required the same should be under common seal affixed in accordance with the required procedure.*
- iii. *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- iv. *For a Power of Attorney executed and issued in India, the notarization is to confirm that the document was executed in the presence of a notary.*
- v. *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries conforming Apostille certificate.*

## APPENDIX-D-2: Format for Power of Attorney for Lead Member of the Consortium

(To be executed on a Stamp Paper of INR 100; To be Notarized)

Dated -----

### POWER OF ATTORNEY TO WHOMSOEVER IT MAY CONCERN

Whereas Tourism Department, Government of Meghalaya, (the **“Authority”**) has invited Bids from interested parties for **“RFP for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)”** (the **“Project”**).

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

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

### NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS

We, \_\_\_\_\_ having our registered office at \_\_\_\_\_, [the name and address of the registered office], M/s \_\_\_\_\_ having our registered office at \_\_\_\_\_, [the name and address of the registered office] \_\_\_\_\_ having our registered office at \_\_\_\_\_, [the name and address of the registered office], \_\_\_\_\_ having our registered office at \_\_\_\_\_, [the name and address of the registered office], (hereinafter collectively referred to as the **“Principal”**) do hereby irrevocably designate, nominate, constitute, appoint and authorize M/s \_\_\_\_\_ having its registered office at \_\_\_\_\_, being one of the Members of the Consortium, as the **Lead Member** and true and lawful attorney of the Consortium (hereinafter referred to as the **“Attorney”**). We hereby irrevocably authorize the Attorney (with power to sub delegate) to conduct all business for and on behalf of the Consortium and any one of us during the Bidding Process and, in the event the Consortium is awarded the Concession/Contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Consortium, all or any of such acts, deeds or things as are necessary or required or incidental to the submission of its bid for the Project, including but not limited to signing and submission of all Bids, bids and other documents and writings, participate in bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of bid of the Consortium and generally to represent the Consortium in all its dealings with MTDC and/ or the Authority, and/ or any other Government Agency or any person, in all matters in connection with or relating to or arising out of the Consortium’s bid for the Project and/ or upon award thereof till the Concession Agreement is entered into with the Authority.

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

exercise of the powers hereby conferred shall and shall always be deemed to have been done by us/  
Consortium.

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

By \_\_\_\_\_ [the Authorising Company]  
Signature \_\_\_\_\_ [Signature of Authorised signing  
officer]  
Name \_\_\_\_\_ [Name of Authorised signing officer]  
Title \_\_\_\_\_ [Title of Authorised signing officer]

By \_\_\_\_\_ [the Authorising Company]  
Signature \_\_\_\_\_ [Signature of Authorised signing  
officer]  
Name \_\_\_\_\_ [Name of Authorised signing officer]  
Title \_\_\_\_\_ [Title of Authorised signing officer]

By \_\_\_\_\_ [the Authorising Company]  
Signature \_\_\_\_\_ [Signature of Authorised signing  
officer]  
Name \_\_\_\_\_ [Name of Authorised signing officer]  
Title \_\_\_\_\_ [Title of Authorised signing officer]

By \_\_\_\_\_ [the Authorising Company]  
Signature \_\_\_\_\_ [Signature of Authorised signing  
officer]  
Name \_\_\_\_\_ [Name of Authorised signing officer]  
Title \_\_\_\_\_ [Title of Authorised signing officer]

**(Executants)**

**Witness 1**

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_

**Witness 2**

Signature \_\_\_\_\_  
Name \_\_\_\_\_  
Address \_\_\_\_\_

**Note:**

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

- iii. *Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favor of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.*
- iv. *For a Power of Attorney executed and issued in India, the notarization is to confirm that the document was executed in the presence of a notary.*
- v. *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy. However, the Power of Attorney provided by Bidders from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries conforming Apostille certificate.*

## APPENDIX-E: Minimum Eligibility Criteria

### GUIDELINES

1. The Statutory Auditor / Chartered Accountant issuing the certification for Experience of the Bidder must hold a valid Certificate of Practice. The CA Certificate shall be accompanied with a valid UDIN.
2. For conversion of US Dollars to INR, the rate of conversion shall be INR 80 (Eighty) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into INR at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.
3. Documentary evidence must be submitted along with the Proposal, to support Technical and Financial Capacity claim, as per Clause 3.2.6.
4. Refer to the following format for establishing experience of Bidder.



## APPENDIX-E-1: Bid Response Sheet 1

### Format for Technical Capacity

(To be submitted on A4 paper | To be signed by both Authorized Signatory and Statutory Auditor)

### Technical Capacity: CRITERIA: A- Bidder with HOSPITALITY EXPERIENCE

*Use the same format for Details of the Firm from Hospitality Sector*

#### Details of Hotels/ Resorts:

Sl No	Name & Address of Hotel	Owner Entity	No. of Rooms	Operational Date (MM/YYYY)	Operational Till (MM/YYYY)	Total Period of Operations (months)
1						
2						
3						
4						
5						
6						
7						
....						

#### Note:

- Financial Years considered for the purpose of Technical Capacity shall be 2023-2024, 2022-23, 2021-22, 2020-21, 2019-20, 2018-19, 2017-18, 2016-17, 2015-16 and 2014-15.
- In case the credentials of an Associate of a Bidder are used, a certificate from a qualified external auditor, who audits the book of accounts of the Bidder, shall be provided to demonstrate that the person is an Associate of the Bidder.
- The form may also be submitted separately for Consortium Members, with certification by the respective statutory auditor of each Consortium Member. In such case, the Bidder must also submit a summary sheet, with aggregate experience of all Consortium Members, signed and verified by the Lead Member.**
- The following documentary evidence must be submitted along with the Proposal:
  - In support of the claimed experience, the Bidder (or each Consortium Member claiming experience) should provide certificate(s) from its statutory auditor(s) stating the veracity of the above experience.*
  - Copy of the certificate for the star categorization of hotel issued by the Ministry of Tourism, Government of India*
  - It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant experience.*

(Signature of Authorised Signatory)

**Company seal & stamp**

**Signature, Name, Address and Membership number of Statutory Auditor**

## APPENDIX-E-1: Bid Response Sheet 2

### Format for Technical Capacity

(To be submitted on A4 paper | To be signed by both Authorized Signatory and Statutory Auditor)

### Technical Capacity: CRITERIA: B – Bidder with CONSTRUCTION EXPERIENCE and Tie-up with Operator from Hospitality Sector

The Bidder needs to submit the following:

- **Table 1:** To be submitted separately for each Consortium Member / Associate and certified by the statutory auditor of the consortium member / Associate, Authorized Signatory, and the authorized signing officer of the respective consortium member / Associate.
- **Table 2:** To be a summary form for all consortium members / Associates and certified by Authorized Signatory.

**TABLE- 1: Details of Eligible Projects: To be filled compulsorily in all cases**

Sl No	Details	Project-1	Project-2	Project-3	Project-n
1	Member Code (SE / LM / NLM-1 /NLM-2 )				
2	Name and nature of the Project				
3	Type: (Real Estate/ Core Sector)				
4	Role-Developer/Prime contractor/ Subcontractor / Owner				
5	Type of Project – PPP / EPC / Own Development				
6	Project Location				
7	Total Project cost (i.e. Construction Cost / CAPEX) (INR crore), excluding cost of land				
8	Value of Contract awarded to the entity claiming experience (INR crore)				
9	Total amount: a) Developed/paid for development of Eligible Project(s) b) Paid for or received payments for construction of Eligible Project(s); by the entity claiming experience, over last 10 financial years (i.e. starting from 1st April 2014)				
i	FY14-15				
ii	FY15-16				
iii	FY16-17				
iv	FY17-18				
v	FY18-19				
vi	FY19-20				
vii	FY20-21				
viii	FY21-22				
ix	FY22-23				
x	FY23-24				
	<b>TOTAL (A)</b>				

Sl No	Details	Project-1	Project-2	Project-3	Project-n
11	Date of commencement of Construction works				
12	Date of Completion of construction works (Expected date in case of ongoing projects)				
13	Date of commencement of operations				
14	Authority / Client for whom the project is carried out, applicable				
15	Equity holding at the time of execution/ construction, in case the project is undertaken as part of a consortium or partnership (with period during which the equity was held)				
16	Details of Proof Submitted				

**Note:**

1. Only the eligible projects that satisfy **Criteria-B** shall be included.
2. All the currency numbers are to be given in INR.
3. In case of the use of credentials of an Associate of a Bidder / Consortium Member, a certificate from a qualified external auditor who audits the book of accounts of the Bidder, or the Consortium Member shall be provided to demonstrate that the person is an Associate of the Bidder or the Consortium Member, as the case may be.
4. The following documentary evidence must be submitted along with the Proposal, to support **Criteria-B** claim:

**a. PROOF OF PROJECT COST (As per ROW 7 of Table-1 above)**

- i. A certificate from appropriate authorities / clients certifying project cost. **OR**
- ii. In case of owned projects, certificate from statutory auditor.

**AND**

**b. PROOF OF EXPERIENCE AND ROLE (As per ROW 4,5 & 8 of Table-1 above)**

- i. Letter of Award / Contract AND a certificate from appropriate authorities / clients certifying other details not given in Letter of award / contract. **OR**
- ii. In case of owned projects, certificate from statutory auditor. **OR**
- iii. In case of Eligible Projects awarded under PPP / EPC mode:

Relevant pages of the work order / letter of award / contract / agreement. Relevant pages shall mean the Preamble of such contract / agreement detailing the parties, section containing information on project details like size / cost, and the last pages detailing the signatories.

**AND**

**c. PROOF of AMOUNTS PAID FOR OR RECEIVED FOR DEVELOPMENT AND/OR CONSTRUCTION (As per ROW 9 of Table-1 above)**

- ▶ Certificate from statutory auditor **OR**
- ▶ Certificate from Client / project owning authority.

**AND**

**d. AUDITED FINANCIAL STATEMENTS FOR EACH FINANCIAL YEAR.**

(Signature of Authorized signing officer of the consortium member / Associate)

**Company seal & stamp**

(Signature of Authorized Signatory)

**Company seal & stamp**

**Signature, Name, Address and Membership number of Statutory Auditor**

**TABLE- 2A: If the Bidder/ Consortium fulfil CRITERIA B**

Sl No	Particulars	Single Entity/ Consortium Lead Member	Consortium Member-2	Consortium Member-3
1	Proposed shareholding in the Consortium, if applicable			
2	Total number of Eligible Projects, as per Table 1			
3	Sum total of amount a) Developed/paid for development of Eligible Project(s) b) Paid for or received payments for construction of Eligible Project(s); (i.e. sum of Row [9] in Table 1 above			
4	Sum total for the Bidder, across all Consortium members (INR crore)			

**Note: Special Conditions for a Consortium**

- 1) The Technical Capacity of the Bidder would be taken as aggregate of all members of the Consortium, who hold and shall continue to hold at least 26% equity shareholding till 5 years from COD.
- 2) The Technical Capacity of Associates can be taken into account while calculating Technical and Financial Capacity of Bidders / member of Consortium.

(Signature of Authorized Signatory)

**Company seal & stamp**

**Signature, Name, Address and Membership number of Statutory Auditor**

## APPENDIX-E-2: Bid Response Sheet 2

### Format for Financial Capacity

(To be submitted on A4 paper | To be signed by both Authorized Signatory and Statutory Auditor)

### Financial Capacity

To be mentioned separately for each Consortium Member / Associate of Bidder

Financial Capacity	Single Entity/ Consortium Lead Member	Consortium Member-2	Consortium Member-3	Associates, if any
<b>A. NET WORTH</b>				
Net Worth as of 31 <sup>st</sup> March 2024				
<b>Aggregate Net Worth</b>				
<b>B. TURNOVER</b>				
Turnover in 2019-20				
Turnover in 2020-21				
Turnover in 2021-22				
Turnover in 2022-23				
Turnover in 2023-24				
<b>Average Annual Turnover of (3 years of the Last 5 Years in Crores)</b>				
<b>Aggregate of Average Annual Turnover</b>				

Note:

- All the Financial numbers are to be given in Indian Rupees.
- In case of the use of credentials of an Associate of a Bidder, a certificate from a qualified external auditor who audits the book of accounts of the Bidder shall be provided to demonstrate that the person is an Associate of the Bidder.
- The form may also be submitted separately for the Consortium Members, with certification by the respective statutory auditor of each of the Consortium Members. In such case, the Bidder must also submit a summary sheet, with aggregate average turnover and net worth of all Consortium Members, signed and verified by the Lead Member.
- The following documentary evidence must be submitted along with the Proposal, to support Financial Capacity claim:
  - The Bidder, or each Consortium Member / Associate claiming experience, shall attach copies of the P&L, Balance sheet and Annual Reports for 5 (five) years preceding the Bid Due Date. The financial statements must be:
    - be audited by a statutory auditor **AND**
    - be complete, including all notes to the financial statements.
  - It may be noted that in the absence of any detail in the above certificates, the information would be considered inadequate and could lead to exclusion of the relevant experience.

(Signature of Authorised Signatory)

**Company seal & stamp**

**Signature, Name, Address and Membership No. of Statutory Auditor**



### APPENDIX-E-3: Bid Response Sheet 3

#### Certificate from the Statutory Auditor regarding Associate

#### OPTIONAL – IN CASE THE BIDDER HAS USED CREDENTIALS OF ITS ASSOCIATES TO MEET TECHNICAL / FINANCIAL CAPACITY

(To be printed on Letter Head)

Based on the authenticated record of the Company, this is to certify that more than 50% (fifty per cent) of the subscribed and paid-up voting equity of \_\_\_\_\_ (name of the Bidder/ Consortium Member/Associate) is held, directly or indirectly<sup>1</sup>, by ..... (name of Associate/ Bidder/ Consortium Member). By virtue of the aforesaid shareholding, the latter exercises control over the former, who is an Associate in terms of Clause 3.2.5 of the ITB.

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

.....

{Describe the shareholding of the Bidder/ Consortium Member and the Associate. In the event the Associate is under common control with the Bidder/ Consortium Member, the relationship may be suitably described and similarly certified herein.}

---

Signature of Statutory Auditor of Bidder / Consortium Member

---

Signature of Authorized signing officer of the consortium member, whose Associate is certified herein.

---

Signature of Authorized Signatory

---

<sup>1</sup> In the case of indirect shareholding, the intervening companies in the chain of ownership should also be Associates i.e., the shareholding in each such company should be more than 50% in order to establish that the chain of "control" is not broken

## APPENDIX-F: Acknowledgement Letter

(To be submitted on Company's Letter Head by Single Bidder / each Consortium members separately))

I \_\_\_\_\_ (full name), s/o \_\_\_\_\_, the  
\_\_\_\_\_ (insert designation) of the  
\_\_\_\_\_ (insert name of the single Bidder / Consortium member,  
in case of a Consortium), state as follows :

- a. Have reviewed the entire Proposal.
- b. Proposal submitted is in accordance with each key element of the Proposal, including, but not limited to, its Technical and Financial components, description of the member's responsibilities and commitments to the Project, and the designated person(s) who will represent the Consortium during the negotiation process.
- c. Have participated in only one Proposal for a given Project.
- d. Each of the Consortium members will be jointly and severally liable to the Authority.
- e. Acknowledges that the Authority reserves the right to reject any / all Proposals including the highest Proposal or withdraw the invitation of the Proposal at any stage without citing any reason.

Authorised signatory

Date:

Name and seal of the Bidder

Place:

## APPENDIX-G: Acknowledgement Letter

(To be submitted on Company's Letter Head by Single Bidder / Lead Member of the Consortium)

Ref.

Date:

To,  
The Director of Tourism,  
Directorate of Tourism, Govt of Meghalaya  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India

Dear Sir,

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

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

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

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorised signatory)

For and on behalf of.....

## APPENDIX-H: Format for Bid Security (Bank Guarantee)

### BID / PROPOSAL SECURITY

#### UNCONDITIONAL AND IRREVOCABLE BANK GUARANTEE

Bank Guarantee No.: \_\_\_\_\_

Dated: \_\_\_\_\_

#### ISSUER OF BANK GUARANTEE:

\_\_\_\_\_ (Name of the Bank)

(Hereinafter referred to as the “Bank”)

#### BENEFICIARY OF BANK GUARANTEE:

To,  
The Director of Tourism,  
Directorate of Tourism, Govt of Meghalaya  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India

#### NATURE OF BANK GUARANTEE:

Unconditional and irrevocable Bank Guarantee.

#### CONTEXT OF BANK GUARANTEE:

In pursuance of Clause 4.4 of Volume-I of the Request for Proposal Document dated \_\_\_\_\_ 2024 (hereinafter referred to as the “RFP” inclusive of draft Concession Agreement) for **the Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)** (hereinafter referred to as the “Project”), provided however, such context of the Bank Guarantee or reference to the contract in this Bank Guarantee shall in no manner to relied upon at any stage to adversely affect or dilute the unconditional and irrevocable nature of this Bank Guarantee.

#### **Operative part of the Bank Guarantee:**

1. At the request of the \_\_\_\_\_ (name and address of the Bidder), we \_\_\_\_\_ (name and address of the bank), (hereinafter referred to as the “Bank”), do hereby unconditionally and irrevocably affirm and undertake that we are the Guarantor and are responsible to **Tourism Department, Government of Meghalaya (TDGOM) (the “Authority”)** i.e. the beneficiary on behalf of the Bidder, up to a total sum of **INR \_\_\_\_\_ (Rupees \_\_\_\_\_ Only)**, such sum being payable by us to the Authority immediately upon receipt of first written demand from the Authority.
2. We unconditionally and irrevocably undertake to pay to the Authority on an immediate basis, upon receipt of first written demand from Authority and without any cavil or argument or delaying tactics or reference by us to Bidder and without any need for the Authority to convey to us any reasons for invocation of the Guarantee or to prove the failure on the part of the Bidder to repay the amount of **INR \_\_\_\_\_ (Rupees \_\_\_\_\_ Only)**, or to show grounds or reasons for the demand

or the sum specified therein, the entire sum or sums within the limits of INR \_\_\_\_\_ (Rupees \_\_\_\_\_ Only).

3. We hereby waive the necessity of the Authority demanding the said amount from Bidder prior to serving the Demand Notice upon us.
4. We further agree and affirm that no change or addition to or other modification to the terms of the contract, shall in any way release us from any liability under this unconditional and irrevocable Guarantee and we hereby waive notice of any such change, addition or modification. We further agree with the Authority shall be the sole and the exclusive judge to determine that whether or not any sum or sums are due and payable to him by Bidder, which are recoverable by the Authority by invocation of this Guarantee.
5. This Guarantee will not be discharged due to the change in constitution of the Bank or the Contractor. We undertake not to withdraw or revoke this Guarantee during its currency/validity period, except with the previous written consent of the Authority.
6. We unconditionally and irrevocably undertake to pay to the Authority any amount so demanded not exceeding INR \_\_\_\_\_ (Rupees \_\_\_\_\_ Only), notwithstanding any dispute or disputes raised by Bidder or anyone else in any suit or proceedings before any dispute review expert, arbitrator, court, tribunal or other authority, our liability under this Guarantee being absolute, unconditional and unequivocal. The payment so made by us under this Guarantee to the Authority shall be a valid discharge of our liability for payment under this Guarantee, and the Bidder shall have no claim against us for making such payment.
7. This unconditional and irrevocable Guarantee shall remain in full force and effect and shall remain valid until \_\_\_\_\_ <180 days from the Proposal Due Date>.
8. This Bank Guarantee is issued by the Bank having its office at \_\_\_\_\_ but as per the Authority's requirement, this Guarantee can be encashable / negotiable at the Bank's branch at Shillong having address at \_\_\_\_\_.

Notwithstanding any contained herein:

- 1) Our liability under this Bank Guarantee shall not exceed Indian INR \_\_\_\_\_ (Rupees \_\_\_\_\_ only).
- 2) This unconditional and irrevocable Bank Guarantee shall be valid w.e.f. \_\_\_\_\_ (Date of Submission of Bid) to \_\_\_\_\_.

We are liable to pay the guaranteed amount or any part thereof under this unconditional and irrevocable Bank Guarantee only and only if the Authority, serves upon us a written claim or demand on or before \_\_\_\_\_.

\_\_\_\_\_  
**Authorized Signatory (Bank)**

## APPENDIX-I: Draft Consortium/ Joint Bidding Agreement

(To Be Made on Stamp Paper of Requisite Value and Notarized)

This Consortium Agreement (the "AGREEMENT") made at \_\_\_\_\_ on this \_\_\_\_ day of \_\_\_\_\_, (Year)

### BY AND BETWEEN

M/s \_\_\_\_\_ {Lead Member (Consortium Member 1)}, a \_\_\_\_\_ incorporated under \_\_\_\_\_ (name of the relevant act/law of under which registered in the Country of Registration) and having its registered office / a company incorporated under the Laws of \_\_\_\_\_ (hereinafter referred to as "\_\_\_\_\_", which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors in interest, subsidiaries and assigns) of the **ONE PART**;

### AND

M/s \_\_\_\_\_ (Consortium Member 2), a \_\_\_\_\_ incorporated under the \_\_\_\_\_ and having its registered office / a company incorporated under the Laws of \_\_\_\_\_ (hereinafter referred to as "\_\_\_\_\_", which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors in interest, subsidiaries and assigns) of the **SECOND PART**;

### AND

M/s \_\_\_\_\_ (Consortium Member 3), a \_\_\_\_\_ incorporated under the \_\_\_\_\_ and having its registered office / a company incorporated under the Laws of \_\_\_\_\_ (hereinafter referred to as "\_\_\_\_\_", which expression shall unless repugnant to the context or meaning thereof be deemed to mean and include its successors in interest, subsidiaries and assigns) of the **THIRD PART**;

(\_\_\_\_\_ and \_\_\_\_\_ and \_\_\_\_\_ shall be individually referred to as the "Party" and jointly referred to as the "Parties" or "Consortium Members").

### WHEREAS:

- A. Tourism Department, Government of Meghalaya (TDGOM) (hereinafter referred to as the "**Authority**"), invited Bids/ Proposals for the work of "**RFP for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)**" (hereinafter referred to as the "**Project**").
- B. M/s \_\_\_\_\_, M/s \_\_\_\_\_ and M/s. \_\_\_\_\_ have agreed to consolidate their resources and experience, and apply jointly as a Consortium (hereinafter referred to as the "Consortium"), vide this Consortium Agreement, for the purpose of developing and completing the Project, within time frame stipulated in the Request for Proposal Document (hereinafter referred to as the "RFP document").
- C. M/s \_\_\_\_\_, M/s \_\_\_\_\_ and M/s. \_\_\_\_\_ have therefore agreed to enter into this Consortium Agreement in respect of the submission of the Bid/ Proposal for the Project on the terms set out below.

**NOW IT IS HEREBY AGREED as follows:**

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

**2. Consortium**

- a) The Parties do hereby irrevocably constitute a consortium (the "Consortium") for the purposes of jointly participating in the Bidding Process for the Project.
- b) The Parties hereby undertake to participate in the Bidding Process only through this Consortium and not individually and/ or through any other consortium constituted for this Project, either directly or indirectly or through any of their Associates.

**3. Covenants**

The Parties hereby undertake that in the event the Consortium is declared as the selected Bidder and awarded the Project, it shall incorporate a special purpose vehicle (the "SPV") under the Indian Companies Act, 2013 for entering into a Concession Agreement with the Authority and for performing all its obligations as the Concessionaire in terms of the Concession Agreement for the Project.

**4. Role of the Parties**

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

- a) Party of the First Part shall be the Lead member of the Consortium and shall have the Power of Attorney from all Parties for conducting all business for and on behalf of the Consortium during the Bidding Process and until the Appointed Date under the Concession Agreement when all the obligations of the SPV shall become effective;
- b) The role of role and the responsibility of each Party for the "Project" shall be as follows:

Name of the Member	Type of Member	Shareholding	Role & Responsibility
	Consortium Member-1 (Lead Member)		
	Consortium Member-2		
	Consortium Member-2		

**5. Joint and Several Liability**

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFP and the Concession Agreement, till such time as the Financial Close for the Project is achieved under and in accordance with the Concession Agreement.

**6. Shareholding in the SPV**

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

First Party (Lead Member): ...%

Second Party: ....%

Third Party:.... %



- b. The Parties undertake that the First Party (Lead Member) shall hold the above-mentioned shareholding of the subscribed and paid-up equity share capital of the SPV for a period of 5 years from COD and, thereafter, Lead Member shall hold at least 26% (twenty -six per cent) of the subscribed and paid-up equity share capital of the SPV till the 10<sup>th</sup> Anniversary of COD
- c. The Parties undertake that the Non-Lead Member nominated at the time of submission of the Proposal, whose credentials are counted for evaluation of Technical Capacity and Financial Capacity, shall hold a minimum shareholding of 26% (twenty-six percent) respectively for a period of 5 years from COD.
- d. The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

## **7. Representation of the Parties**

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

- a. Such Party is duly organised, validly existing and in good standing under the laws of its incorporation and has all requisite power and authority to enter into this Agreement;
- b. The execution, delivery and performance by such Party of this Agreement has been authorised by all necessary and appropriate corporate or governmental action and a copy of the extract of the charter documents and board resolution/ power of attorney in favour of the person executing this Agreement for the delegation of power and authority to execute this Agreement on behalf of the Consortium Member is annexed to this Agreement, and will not, to the best of its knowledge:
  - i. require any consent or approval not already obtained.
  - ii. violate any Applicable Law presently in effect and having applicability to it;
  - iii. violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;
  - iv. violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or
  - v. create or impose any liens, mortgages, pledges, claims, security interests, charges or encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement
- c. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
- d. there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Associates is a party that presently affects, or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement

## 8. Termination

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

## 9. Miscellaneous

- a. This Joint Bidding Agreement shall be governed by the laws of India.
- b. **Confidentiality** – All information, document, etc. exchanged between the Parties related to this agreement or the preparation of any Bid or the performance of the Project shall remain confidential and shall not be revealed to third parties for a certain time period to be agreed upon. Unless otherwise required by law, the Parties undertake not to disclose to any third party or any else and / or use any Information, without prior consent of the other Party.
- c. **Term and Duration** – This Agreement shall come into effect on the date of submission of the Bid/Proposal for the Project. This Agreement shall terminate upon the successful completion of the Project and may be extended further for such period as may be required by the Authority. This Agreement can be terminated only upon Consortium's Bid for the Project is conclusively rejected by the Authority.
- d. **Costs/Expenses** – All out-of-pocket expenses/costs of and incidental to this Agreement including stamp duty and registration fees, if any shall be borne and paid by the Parties. Each Party shall pay and bear their own advocated/solicitors fees in the preparation of this Agreement.
- e. **Governing Law** – This Agreement shall in all respect be governed, construed and interpreted in accordance with laws of Republic of India.
- f. **Settlement of Disputes** – Any disputes arising out of this Agreement shall be amicably settled by the Authorised representatives of the Parties; failing which, any such disputes shall be resolved by Arbitration in accordance with the Arbitration and Conciliation Act, 1996, by one or more arbitrators appointed in accordance with the said Act. This Clause shall survive the termination of this Agreement.
- g. **Language of Arbitration** shall be English. The venue of the Arbitration proceedings shall be in Dehradun, India. The Parties jointly and severally undertake that the Project shall not be affected during the dispute(s) or the settlement of dispute(s) period.
- h. The Award rendered by the Arbitral Tribunal shall be final and binding upon the Parties.
- i. In the event of a dispute between the Parties over the subject of this Agreement, the prevailing party shall be entitled to reasonable advocates/solicitors' fees and costs incurred in the resolution of such dispute.
- j. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

- k. **Amendments** – This Agreement can be amended or suppressed by further agreement made in writing at the request of any of the Parties after unanimous approval by the Parties and by obtaining prior consent and written approval from the Authority.
- l. **Notices** – Any notices, requests, demands or any communications from any party to the other party under this Agreement shall be by Regd. / Speed mail or facsimile transmission sent to the addresses as indicated in this Agreement. Any party may change its address but shall promptly inform the Authority and the other Parties/ Consortium Members of any such change.
- m. **Assignment** – None of the Parties to this Agreement shall have the right to assign its benefits or liabilities under this Agreement to any other company, firm or person without obtaining prior consent and written approval of the Authority.
- n. **Entire Agreement** – This Agreement constitutes the entire agreement between the Parties and supersedes all prior writings, agreements or understandings relating to the subject matter thereof.

IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

**SIGNED AND DELIVERED BY** \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**SIGNED AND DELIVERED BY** \_\_\_\_\_

By: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_

Witness:

1. \_\_\_\_\_

2. \_\_\_\_\_

## APPENDIX-J: O & M Undertaking

(Affidavit on Non-Judicial Stamp Paper duly Notarised)

I/ We, the undersigned, do hereby declare and undertake that I / We shall in the event of getting selected to undertake the Project, shall; no later than 6 (six) months prior to the Commercial Operations Date ("COD" as defined under the Concession Agreement); onboard [name of the O&M Member/Entity proposed at time of bid submission] for minimum period of at least 5 (five) years from COD with 5 Star/ 5 Star Equivalent Hotel Brand/ Chain/Operator possessing necessary experience and qualified personnel for operation, maintenance and management of the Project and discharging all O&M obligations, in accordance with the requirements of the Concession Agreement, failing which the Concession Agreement shall be liable for termination. The submission of the O&M Agreement will be condition precedent of the Concession Agreement.

Signature of Bidder with Seal

Date:

Location:

Note : The Bidder has to attach Tie up letter of O & M Operator of Hospitality Sector

## APPENDIX-K: Format for Financial Proposal

To,  
The Director of Tourism,  
Directorate of Tourism, Govt of Meghalaya,  
3rd Secretariat Nokrek Building,  
Lower Lachumiere, Shillong 793001,  
Meghalaya, India

Sub: Financial Proposal for Request for Proposal for Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP)

Sir,

With reference to the subject RFP document dated I/ we have examined the Bidding Documents and understood their contents,

I/ we offer to develop, operate, maintain, and manage 5 star luxury resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya in accordance with the stipulated terms and conditions and other particulars therein as defined in this RFP.

I / we hereby offer and agree to pay the following as Annual Lease Rent for the below mentioned Property:

Name of the Project	Quoted Revenue Share (Percentage)	Quoted Revenue Share (in words)
Development, Operation and Maintenance of 5 Star Luxury Resort, located at Sohra, Cherrapunjee, East Khasi Hills District, Meghalaya under Design, Build, Finance, Operate and Transfer (DBFOT) Mode on Public Private Partnership (PPP) )		

I/ we agree that my/ our Financial Bid shall remain valid for a period as mentioned in this RFP from the Bid Due Date prescribed for submission of Proposal. I / we confirm that our Financial Bid is unconditional and that we accept all terms and conditions specified in the RFP. I / we agree to be bound by this offer if we are the Selected Bidder for the aforementioned Project. There will be no grant, positive or negative from Tourism Department, Government of Meghalaya.

Yours sincerely,

Signed by:  
(Name of the Authorised Signatory) For and on behalf of  
(Name of the Bidder)  
Designation  
Place:  
Date: