

**Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis**

**Volume I**

**Request for Proposal**

\_\_\_\_\_, 2025

**Tender No.:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**KARNATAKA TOURISM INFRASTRUCTURE LIMITED**

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**Website: www.karnatakatourism.org**

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**DISCLAIMER**

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

This RFP is not an agreement and is neither an offer nor invitation by the Authority to the prospective bidder(s) (the **“Bidder”**) or any other person. The purpose of this RFP is to provide interested parties with information that may be useful to them in the formulation of their Bid for qualification pursuant to this RFP (the **“Bid”**). This RFP includes statements, which reflect various assumptions and assessments arrived at by the Authority in relation to the Project. Such assumptions, assessments and statements do not purport to contain all the information that each Bidder may require. This RFP may not be appropriate for all persons, and it is not possible for the Authority, its employees or advisors to consider the investment objectives, financial situation and particular needs of each party who reads or uses this RFP. The assumptions, assessments, statements and information contained in this RFP may not be complete, accurate, adequate or correct. Each Bidder should therefore, conduct its own investigations and analysis and should check the accuracy, adequacy, correctness, reliability and completeness of the assumptions, assessments, statements and information contained in this RFP and obtain independent advice from appropriate sources. Information provided in this RFP to the Bidder(s) is on a wide range of matters, some of which depends upon interpretation of law. The information given is not an exhaustive account of statutory requirements and should not be regarded as a complete or authoritative statement of law. The Authority accepts no responsibility for the accuracy or otherwise for any interpretation or opinion on law expressed herein.

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

The Authority also accepts no liability of any nature whether resulting from negligence or otherwise howsoever caused arising from reliance of any Bidder upon the statements contained in this RFP. The Authority may, in its absolute discretion but without being under any obligation to do so, update, amend or supplement the information, assessment or assumptions contained in this RFP.

The issue of this RFP does not imply that the Authority is bound to select and short-list pre-qualified bids for Bid Stage 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 Bids 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. All such costs and expenses will remain with 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.

# 1. INTRODUCTION

1. **INTRODUCTION**
   1. **Background**
      1. Karnataka Tourism Infrastructure Limited, Government of Karnataka (**"KTIL”** or **"Authority"**) is engaged in the development of tourism infrastructure in the State of Karnataka. As part of this endeavour, the Authority has decided to undertake the development and operation of Tourism Facilities at Banashankari in Karnataka (the “**Project Site**”) on Design, Build, Finance, Operate and Transfer (the **"DBFOT"**) basis under Public Private Partnership framework for a period of 30 (thirty) years (the **“Project”**) inclusive of 24 (Twenty-Four) months of construction period. A brief description of the Project may be seen in the Schedule I provided as Volume III of this Bidding Document.

Brief particulars of the Project are as follows:

| **Name of the Project** | **Extent of Area** | **Indicative Project Cost** | **Proposed Facility** |
| --- | --- | --- | --- |
| Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis | 4.1 acres | Rs 14.46 Crores (Rupees Fourteen Crores Forty-Six Lakhs only) | Cultural haat, food court, Children’s park, folk area |

The Authority intends to carry out a single-stage 2 cover competitive bidding process (the **"Bidding Process"**) to identify and select a suitable entity to whom the Project may be awarded (the “**Selected Bidder**”).

* + 1. The Selected Bidder shall form a Special Purpose Vehicle, incorporated as a company under the Companies Act, 2013 (as re-enacted, modified and amended from time to time) prior to execution of the Concession Agreement(the **"Concessionaire"**), and shall be responsible for designing, financing, construction, operation and maintenance and transfer the Project under and in accordance with the provisions of Concession Agreement(the **"Concession Agreement"**) to be entered into between the Concessionaire, and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto.
    2. The scope of work will broadly include planning, designing, engineering, financing, constructing, marketing, operation, maintenance and transfer of the Project. The selected Bidder should develop the mandatory facilities as specified in the Concession Agreement. The Concessionaire has the right to demand, charge, collect and retain the user fee from users of the Project and transfer the Project Site along with the Project facilities to the Authority or its authorised representative upon expiry in accordance with the provisions of draft Concession Agreement.
    3. The estimated cost of the Project (the "Estimated Project Cost") has been specified in Clause 1.1.1 above. The assessment of actual costs, however, will have to be made by the Bidders.
    4. The draft Concession Agreement sets forth the detailed terms and conditions for grant of the concession to the Concessionaire, including the scope of the Concessionaire’s services and obligations (the **"Concession"**) and is provided as Volume II of this RFP document.
    5. The statements and explanations contained in this RFP document (“RFP”) are intended to provide a proper understanding to the Bidders about the subject matter of this RFP and should not be construed or interpreted as limiting in any way or manner the scope of services and obligations of the Concessionaire set forth in the Concession Agreement or the Authority’s rights to amend, alter, change, supplement or clarify the scope of work, the concession to be awarded pursuant to this RFP or the terms thereof or herein contained. Consequently, any omissions, conflicts or contradictions in the Bidding Documents including this RFP are to be noted, interpreted and applied appropriately to give effect to this intent, and no claims on that account shall be entertained by Authority.
    6. The Authority shall receive Bids pursuant to this RFP in accordance with the terms set forth in this RFP and Draft Concession Agreement to be provided by the Authority pursuant to this RFP (collectively the **“Bidding Documents”**), as modified, altered, amended and clarified from time to time by the Authority, and all Bids shall be prepared and submitted in accordance with such terms. Any corrigenda / addenda issued subsequent to this RFP Document, but before the Bid Due Date, will be deemed to form part of the Bidding Documents.
  1. **Brief description of Bidding Process**
     1. The Authority has adopted a single-stage two-cover system (collectively referred to as the **"Bidding Process"**) for selection of the bidder for award of the Project which expression shall, unless repugnant to the context include the members of the Consortium for the Project in accordance with the terms of this RFP. The first stage (the **"Qualification Stage"**) of the process involves qualification (the **"Qualification"**) of interested parties/ consortia that make a Bid in accordance with the provisions of this RFP (the **"Bidders"**). At the end of this stage, the Authority intends to announce a list of Qualified Bidders who shall be eligible for the second stage of the Bidding Process (the **"Bid Stage"**) comprising the price Bid (the **"Price Bid"**).
     2. **Qualification Stage**

Bidders would be required to furnish the information specified in this RFP. The Bidders shall be evaluated and shortlisted based on the technical and financial criteria as mentioned in this RFP. The Bidders are advised to visit the site and familiarize themselves with the Project.

* + 1. **Bid Stage**

The Qualified Bidders will be called upon and their Price Bids in respect of the Project shall be opened, in accordance with the Bidding Documents provided by the Authority. Price Bids of only those Bidders that are qualified in the Qualification Stage by the Authority shall be opened at the Bid Stage.

* + 1. **Procurement of Documents**

The Bidding Document may be downloaded from the website of the Authority viz. <https://kppp.karnataka.gov.in> (hereinafter referred to as “**Karnataka Public Procurement Portal**”). The Bidder is required to pay along with its Bid a non-refundable amount of Rs. 5000/- (Rupees Five Thousand only) inclusive of GST[[1]](#footnote-1) through E-Procurement Website, towards the cost of the Bidding Document.

* + 1. Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the Project. The details of the project site and the existing facilities, if any therein is provided as Schedule of Volume-II Draft Concessionaire Agreement. Bidders are expected to carry out their own surveys, investigations and other detailed examination of the Project before submitting their Bids. Nothing contained in the schedule shall be binding on the Authority nor confers any right on the Bidders, and the Authority shall have no liability whatsoever in relation to or arising out of any or all contents of the schedule.
    2. **Bid Validity**

The Bid shall be valid for a period of not less than 180 days from the Bid due date as specified in Clause 1.2.9 for submission of bids (the **"Bid Due Date"**). In exceptional circumstances, prior to expiry of the original Bid Validity Period, the Authority may request the Bidders to extend the Bid Validity Period for a specified additional period.

* + 1. **Bid Security**

In terms of the RFP, a Bidder is required to deposit, along with its Bid, a bid security equivalent to an amount of Rs. 14,46,000/- (Rupees Fourteen Lakh Forty-Six Thousand only) (the "**Bid Security**"), refundable not later than 180 days from the Bid Due Date. Out of the total Bid Security, the Bidder shall furnish part of the Bid Security amounting to Rs. 5,00,000/- (Rupees Five Lakhs only) through e-portal, through any one of the following e-Payment options only.

**Online payments:**

1. Credit Card

2. Direct Debit

3. Internet Banking

**Offline payments:**

4. Remittance at the Bank Counter using challan (ICICI Bank only)

5. NEFT/RTGS

Please note that payment submitted through cheque or demand draft or Bank Guarantee shall not be accepted Further details regarding e-payment, please refer to Karnataka Public Procurement portal – https://kppp.karnataka.gov.in.

Remaining Bid Security of Rs. 9,46,000/- (Rupees Nine Lakhs Forty-Six Thousand only) may be provided in the form of either a demand draft or a bank guarantee / E-Bank Guarantee as per the format provided at **Appendix - VII** issued by a Scheduled Bank or nationalised bank in India and drawn in favour of “Karnataka Tourism Infrastructure Limited”, payable at Bangalore. For the avoidance of doubt, Scheduled Bank shall mean a bank as defined under Section 2(e) of the Reserve Bank of India Act, 1934

The Bid Security shall remain valid for a period of 180 (One hundred and eighty) days from the Bid Due Date, exclusive of a claim period of 60 (sixty) days, and may be extended as may be mutually agreed between Authority and the Bidder from time to time except in the case of the Selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the Concession Agreement. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.

* + 1. **Bid Parameter**

1. The Price Bid for the Project is invited in the form of Annual Concession Fee (**the "Annual Concession Fee”**) per annum offered by the Bidder for award of the Project. The Annual Concession Fee shall constitute the sole criteria for evaluation of the Price Bid. Subject to the terms of this RFP, the Project will be awarded to the Bidder quoting the highest Annual Concession Fee per annum. Annual Concession Fee is payable from the Scheduled Project Completion Date. Annual Concession Fee is payable annually 30 days in advance of the anniversary of Scheduled Project Completion Date, during the term of the Concession Period. Annual Concession Fee shall be escalated by 5% (five percentage) every year throughout the Concession Period.

In this RFP, the term “**Highest Bidder**” shall mean the Bidder who is offering the highest Annual Concession Fee per annum.

1. Generally, the Highest Bidder shall be the Selected Bidder.
2. The amount of the Annual Concession Fee shall be required to be quoted by the bidder with zero decimal. The Annual Concession Fee is exclusive of GST and all other applicable taxes shall be payable by the Concessionaire at actual over and above the Annual Concession Fee.
3. The Concessionaire should pay the Annual Concession Fee to the Authority even if the construction of the Project facilities is completed or not within the specified period or even if the Concessionaire does not start the commercial operation of the Project. In other words, the Concessionaire shall not be entitled to seek any reduction of Annual Concession Fee, claim, damages, compensation or any other consideration from the Authority on account of any reason.
   * 1. **Schedule of Bidding Process**

The Authority shall endeavour to adhere to the following schedule:

| **Sr. No.** | **Particular** | **Timeline** |
| --- | --- | --- |
|  | Last date for receiving queries | \_\_.\_\_.2024 |
|  | Pre-Bid meeting date, time and venue | At: \_\_ hours on \_\_. \_\_.2024  At the office of Managing Director, Karnataka Tourism Infrastructure Limited, 4th Floor, Embassy Building, Infantry Road, Bengaluru–560001 |
|  | Authority response to queries | \_\_.\_\_.2024 |
|  | Last date for submission of Bids (“**Bid Due Date**”) | \_\_.\_\_.2024 up to 1700 hours |
|  | Date and time of opening of Technical Bids | \_\_\_\_\_\_\_ at \_\_\_\_ hours  Venue: Karnataka Tourism Infrastructure Limited, 4th Floor, Embassy Building, Infantry Road, Bengaluru–560001 |
|  | Date and time of opening of Price Bids | To be intimated to pre- qualified bidders |
|  | Address for communication to the Authority | Managing Director  Karnataka Tourism Infrastructure Limited  4th Floor, Embassy Building, Infantry Road, Bengaluru–Phone: 080 - 2235 2424  Email: ktilkarnataka@gmail.com |
|  | Validity of Bids | 180 days from the Bid Due Date |
|  | Issuance of Letter of Award (LOA) | 30 days from the from the date of declaration of the Selected Bidder |
|  | Signing of Concession Agreement | Within 45 days from the date of award of LOA to the Selected Bidder |

# 2. INSTRUCTIONS TO BIDDERS

1. **INSTRUCTIONS TO BIDDERS**

## GENERAL

* 1. **Scope of Bid**
     1. The Authority intends to receive Bids in order to qualify experienced and capable Bidders for successful implementation of the Project. The Price Bids of the Qualified Bidders shall be subsequently evaluated to select the Highest Bidder.
  2. **Eligibility of Bidders**
     1. For determining the eligibility of Bidders for their qualification hereunder, the following shall apply:

1. The Bidder may be a single entity or a group of entities (the **“Consortium”**), coming together to implement the Project. However, no Bidder applying individually or as a member of a Consortium, can be member of another Bidder. The term Bidder used herein would apply to both a single entity and a Consortium. A single entity, bidding for the Project, shall be a Company incorporated under the Companies Act 1956/2013. If the Bidder is a Consortium, then both the Lead and Consortium members shall be a Company registered under the Companies Act, 1956/2013 or under an equivalent law abroad, if it is a foreign company.
2. A Bidder may be a natural person, private entity, government-owned entity or any combination of them with a formal intent to enter into an agreement or under an existing agreement to form a Consortium. A Consortium shall be eligible for consideration subject to the conditions set out in Clause 2.2.5 below.
3. An international Bidder bidding individually or as a member of a Consortium shall ensure that Power of Attorney is legalized /apostilled by appropriate Project Sponsoring Authority notarized in the jurisdiction where the Power of Attorney is being issued and requirements under the Indian Stamp Act, 1899 are duly fulfilled. Further:
   1. Any Bidder from a country which shares a land border with India will be eligible to bid, only if the Bidder is registered with the Competent Project Sponsoring Authority, specified in Annexure 1 of Order (Public Procurement No. 1) issued by Ministry of Finance, Department of Expenditure, Public Procurement Division vide F. No. 6/18/2019- PPD, dated 23rd July 2020, which shall form an integral part of RFP and DCA (Copy enclosed) or as notified by Government from time to time.
   2. “Bidder” (including the terms “tendered”, or “service provider” in certain contexts) means any person or firm or company, including any member of a consortium or joint venture (that is an association of several persons or firms or companies), every artificial juridical person not falling in any of the descriptions of bidders stated hereinbefore, including any agency branch or office controlled by such person, participating in a procurement process.
   3. “Bidder from a country which shares a land border with India” means

* An entity incorporated, established or registered in such a country, or
* A subsidiary of an entity incorporated, established or registered in such a country; or
* An entity substantially controlled through entities incorporated,
* established or registered in such a country; or
* An entity whose beneficial owner is situated in such a country; or
* An Indian (or other) agent of such an entity; or
* A natural person who is a citizen of such a country; or
* A Consortium or joint venture where any member of the consortium or joint venture falls under any of the above.
  1. Beneficial owner for the purpose of (iii) above means

In case of a company or Limited Liability Partnership, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more judicial person, has a controlling ownership interest or who exercises control through other means.

Explanation:

a. “Controlling ownership interest” means ownership of or entitlement to more than twenty-five per cent of shares or capital or profits of the company.

b. “Control” shall include the right to appoint majority of the directors or to control the management or policy decisions including by virtue of their shareholding or management rights or shareholding agreements or voting agreements.

c. In case of a partnership firm, the beneficial owner is the natural person(s) who, whether acting alone or together, or through one or one or more juridical person: has ownership of entitlement to more than fifteen percent of capital or profits of the partnership.

d. In case of an unincorporated association or body of individuals, the beneficial owner is the natural person(s), who, whether acting alone or together, or through one or more juridical person, has ownership of or entitlement to more than fifteen percent of the property or capital or profits of such association or body of individual.

e. Where no natural person is identified under (i) or (ii) or (iii) above, the beneficial owner is the relevant natural person who holds the position of senior managing official.

f. In case of a trust, the identification of beneficial owner(s) shall include identification of the author of the trust, the trustee, the beneficiaries with fifteen percent or more interest in the trust and any other natural person exercising ultimate effective control over the trust through a chain of control or ownership.

* 1. An Agent is a person employed to do any act for another, or to represent another in dealings with third person.
  2. The Selected Bidder/ Concessionaire shall not be allowed to sub-contract works to any contractor from a country which shares a land border with India unless such contractor is registered with the Competent Project Sponsoring Authority. The definition of “contractor from a country which shares a land border with India” shall be as in Clause 2.2.1 (C)(III) above.

**Certificate regarding Compliance:**

A certificate shall be required to be submitted by the bidders in the format prescribed at Appendix-VI.

It may be noted that in case the above certification is found to be false, this would

be a ground for immediate rejection of Bid/termination and further legal action in

accordance with law.

**Validity of Registration:**

In respect of RFQ cum RFP, registration should be valid at the time of submission of bids and at the time of acceptance of bids. If the Bidder was validly registered at the time of acceptance, registration shall not be a relevant consideration during contract execution.

1. A Bidder shall not have a conflict of interest (the **“Conflict of Interest”**) that affects the Bidding Process. Any Bidder found to have a Conflict of Interest shall be disqualified. In the event of disqualification, the Authority shall forfeit and appropriate the Bid Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, the time, cost and effort of the Authority, including consideration of such Bidder’s proposal, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise. Without limiting the generality of the above, a Bidder may be considered to have a Conflict of Interest that affects the Bidding Process, if:
   * 1. the Bidder, its member or Associates (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 25% (twenty 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 25% (twenty 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 Sec. 73 of the Companies Act, 2013. For the purposes of this Clause 2.2.1 (d) indirect shareholding held through one or more intermediate persons shall be computed as follows:
        1. 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 considered for computing the shareholding of such controlling person in the Subject Person; and
        2. subject always to sub-clause (I) 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 (II) if the shareholding of such person in the intermediary is less than 26% (twenty six per cent) of the subscribed and paid up equity shareholding of such intermediary; or
     2. a constituent of such Bidder is also a constituent of another Bidder; or
     3. such Bidder, or any Associate thereof receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Bidder, or any Associate thereof or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Bidder, its Member or any Associate thereof; or
     4. such Bidder has the same legal representative for purposes of this Bid as any other Bidder; or
     5. 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
     6. 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.
2. A Bidder shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Bidder, its Member or any Associate thereof, as the case may be, in any manner for matters related to or incidental to the Project. 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 this RFP. 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 2.2.1, shall include each Member of such Consortium.

* + 1. To be eligible for pre-qualification, a Bidder shall fulfil the following conditions of eligibility:
       - 1. **Technical Capacity:** For demonstrating technical capacity and experience (the **“Technical Capacity”**), shall over the past 5 (five) financial years preceding the Bid Due Date, have:

1. paid for, or received paymentsfor, construction and/ or operation of Eligible Project(s) in Category 3 and / or construction of eligible project(s) in category 4 specified in Clause 3.2.1; and/ or
2. paid for development of Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.1; and/ or
3. collected and appropriated revenues from Eligible Project(s) in Category 1 and/or Category 2 specified in Clause 3.2.1,

such that the sum total of the experience is more than **Rs. 28,92,00,000/- (Rupees Twenty-Eight Crores Ninety-Two Lakhs only)[[2]](#footnote-2)** (the **“Threshold Technical Capability”**).

Provided that at least one fourth of the Threshold Technical Capacity shall be from the Eligible Projects in Category 1 and/ or Category 3 specified in Clause 3.2.1.

* + - * 1. **Financial Capacity:** For demonstrating financial capacity and experience (the **“Financial Capacity”**), the Bidder shall:
  1. have a minimum Net Worth of Rs. 3,61,50,000/- (Rupees Three Crores Sixty-One Lakhs Fifty Thousand only)**[[3]](#footnote-3)** at the close of the financial year 2023-24.
  2. have a minimum Average Annual Turnover of Rs. 14,46,00,000/- (Rupees Fourteen Crores Forty-Six Lakhs only)**[[4]](#footnote-4)** during the 3 (three) financial years 2021-22, 2022-23, 2023-24.

**Note:**

1. In case of Consortium, the member claiming the experience under clause 2.2.2 (A) shall be the Lead Member of the Consortium.
2. In case of Consortium, the combined technical capacity, net worth and average annual turnover of the members, who have and shall continue to have an equity share of at least 26% (twenty-six per cent) each in the Concessionaire, should satisfy the above criteria, provided that each such Member shall, for a period of 2 (two) 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 of the Concessionaire; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement
   * 1. The Bidders shall enclose with its Bid, to be submitted as per the format at Appendix I, complete with its Annexure, the following:
3. Completion certificate(s) from the client(s) towards the experience in respect of the projects specified under Clause 2.2.2 (A) above and Certificate(s) from the client(s) stating that the claimed project is currently under operations; and
4. Certificate(s) from statutory auditors of the Bidder or its Associates or the concerned client(s) stating the payments made/received or works commissioned, during the past 5 (five) years (immediately preceding the Bid Due Date) in respect of the projects specified in Clause 2.2.2(A) above. In case a particular job/ contract has been jointly executed by the Bidder (as part of a consortium), the Bidder should further support its claim for the share of work done for that particular job/ contract by producing a certificate from its statutory auditor or the client; and
5. Certificate(s) from statutory auditors of the Bidder or its Associates specifying the net worth of the Bidder, as at the close of the financial year (immediately preceding the Bid Due Date), and also specifying that the methodology adopted for calculating such net worth conforms to the provisions of this Clause 2.2.3 (ii). For the purposes of this RFP, net worth (the **“Net Worth”**) 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; and
   * 1. The Bidder should submit a Power of Attorney as per the format at Appendix II, authorizing the signatory of the Bid to commit the Bidder. In case of the Consortium, the members should submit a Power of Attorney in favour of the Lead Member as per format at Appendix III.
     2. The Selected Bidder (whether a single entity or a consortium) shall form an appropriate Special Purpose Vehicle, incorporated under the Indian Companies Act, 2013 (herein referred to as the **“SPV”** or the **“Concessionaire”**), to execute the Concession Agreement and implement the Project. The aggregate direct equity shareholding of the Selected Bidder (whether a single entity or a Consortium) in the issued and paid up equity capital of the Concessionaire shall not be less than 51% (Fifty one percent) at all times until 2nd (second) anniversary of the Commercial Operations Date (COD) of the Project (**Lock-In-Period**), and any divestment thereafter shall be subject to the prior consent of the Authority (which shall not be unreasonably denied by the Authority) and at the option of the Authority, be accompanied by suitable no objection letters from the lenders.

Further, where the Bidder is a Consortium, it should comply with the following additional requirements:

1. Maximum number of members in a consortium should be limited to 2 (two);
2. The Bid should contain the information required for each member of the Consortium;
3. The member claiming the experience under clause 2.2.2 (A) shall be the lead member of the Consortium (the **“Lead Member”**), who shall have an equity share of at least 26% (twenty-six per cent) of the subscribed and paid up equity capital of the Concessionaire during the Lock-in-Period. The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix III, signed by all the other members of the Consortium;
4. the Bid should include a brief description of the roles and responsibilities of individual members, particularly with reference to financial and technical obligations including O&M obligations;
5. an individual Bidder cannot at the same time be member of a Consortium. Further, a member of a particular Bidder Consortium cannot be member of any other Bidder Consortium;
6. members of the Consortium shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix V (the **“Jt. Bidding Agreement”**) for the purpose of submitting Bid. The Jt. Bidding Agreement, to be submitted along with the Bid, shall, inter alia:
   1. convey the intent to execute the Project 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 concession to undertake the Project is awarded to the Consortium;
   2. clearly outline the proposed roles and responsibilities, if any, of each member;
   3. commit the minimum equity stake to be held by each member in the Concessionaire during the Lock-in-Period;
   4. 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 Concessionaire and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than 26% (twenty-six per cent) of the subscribed and paid up equity share capital of the Concessionaire;
   5. commit that members of the Consortium shall collectively hold 51% (fifty-one percent) of the subscribed and paid up equity of the Concessionaire at all times until the 2nd (second) anniversary of the commercial operation date of the Project;
   6. commit that any divestment thereafter shall be subject to the prior consent of the Authority (which shall not be unreasonably denied by the Authority) and at the option of the Authority, be accompanied by suitable no objection letters from the lenders;
   7. 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 Closure of the Project is achieved in accordance with the Concession Agreement; and
7. 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.
   * 1. Any entity which has been barred by the Central/State Government, or any entity controlled by it, from participating in any project (BOT or otherwise), and the bar subsists as on the date of Bid, would not be eligible to submit a Bid, either individually or as member of a Consortium.
     2. A Bidder including any Consortium Member or Associate should, in the last 3 (three) years, have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Bidder, Consortium member or Associate, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Bidder, Consortium Member or Associate.
     3. In computing the Technical and Financial Capacity of the Bidder/Consortium Members under Clause 2.2.2, 2.2.3 and 3.2, the Technical and Financial Capacity of their respective Associates would also be eligible hereunder. Provided however, in the event a Bidder gets selected on the strength of the Financial and /or Technical Capability of its Associate, it shall ensure that the said Associate remains an Associate of the Bidder throughout the equity lock-in-period set forth herein and more particularly specified in the Concession Agreement.

For purposes of this RFP, Associate means, in relation to the Bidder/ Consortium Member, a person who controls, is controlled by, or is under the common control with such Bidder / Consortium Member (the **“Associate”**). As used in this definition, the expression **“control”** means, with respect to a person which is a company or corporation, the ownership, directly or indirectly, of more than 50% (fifty 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.

* + 1. The following conditions shall be adhered to while submitting a Bid:

1. Bidders should attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Bidders may format the prescribed forms making due provision for incorporation of the requested information;
2. information supplied by a Bidder (or other constituent member if the Bidder is a Consortium) must apply to the Bidder, Member or Associate named in the Bid and not, unless specifically requested, to other associated companies or firms. Invitation to submit Bids will be issued only to Bidders whose identity and/ or constitution is identical to that at qualification;
3. in responding to the qualification submissions, Bidders should demonstrate their capabilities in accordance with Clause 3.1 below; and
4. in case the Bidder is a consortium, each Member should substantially satisfy the qualification requirements to the extent specified herein.
   * 1. While Qualification is open to persons from any country, the following provisions shall apply:
5. Where, on the date of the Bid, 25% (twenty-five percent) or more of the aggregate issued, subscribed and paid up equity share capital in a Bidder or its Member is held by person resident outside India or where a Bidder or its Member is controlled by person resident outside India; or

if at any subsequent stage after the date of the Bid, there is an acquisition of 25% (twenty five percent) or more of the aggregate issued, subscribed and paid up equity share capital or control, by person resident outside India, in or of the Bidder or its Members; then the Qualification of such Bidder or in the event described in sub-clause(b) above, the continued Qualification of the Bidder shall be subject to approval of the Authority from national security and public interest perspective. The decision of the Authority in this behalf shall be final and conclusive and binding on the Bidder.

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of Shares and Takeovers) Regulations, 2011, or any substitute thereof, as in force on the date of such acquisition.

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

* + 1. Notwithstanding anything to the contrary contained herein, in the event that the Bid Due Date falls within three months of the closing of the latest financial year of a Bidder, it shall ignore such financial year for the purposes of its Bid and furnish all its information and certification with reference to the 5 (five) years or 1 (one) year, as the case may be, preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of a Bid hereunder, mean the accounting year followed by the Bidder in the course of its normal business.
  1. **Change in Ownership** 
     1. By submitting the Bid, the Bidder acknowledges that it shall be qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Consortium Members who shall, until the 2nd(second) anniversary of the date of commercial operation of the Project, individually hold equity share capital representing not less than 26% (twenty-six per cent) of the subscribed and paid-up equity of the Concessionaire.

The Bidder further acknowledges and agrees that:

1. The Bidder and in the event the Bidder is a Consortium, the Consortium members collectively shall hold not less than 100% (one hundred percent) of the issued and paid up equity capital of the Concessionaire at all times commencing from the incorporation of the Concessionaire, until the Appointed Date;
2. thereafter the aggregate direct equity shareholding of the Bidder and in case of Consortium, the Consortium Members in the issued and paid up equity capital of the Concessionaire shall not be less than 51% (fifty-one percent) at all times until 2nd (second) anniversary of the Commercial Operations Date (COD) of the Project; and
3. any divestment thereafter shall be subject to the prior consent of the Authority (which shall not be unreasonably denied by the Authority) and at the option of the Authority, be accompanied by suitable no objection letters from the lenders.

The Bidder further acknowledges and agrees that the aforesaid obligation shall be the minimum and shall be in addition to such other obligations as may be contained in the Concession Agreement, and a breach hereof shall, notwithstanding anything to the contrary contained in the Concession Agreement, be deemed to be a breach of the Concession Agreement and dealt with as such thereunder.

* + 1. By submitting the Bid, the Bidder shall also be deemed to have acknowledged and agreed that in the event of a change in control of a Consortium Member or an Associate whose Technical Capacity and/ or Financial Capacity was taken into consideration for the purposes of qualification under and in accordance with the 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 but prior to the 2nd(second) anniversary of the date of commercial operation of the Project, 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 Security or the 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.

* + 1. **O&M Experience**: The Bidder shall, in the case of a Consortium, include a Member who shall subscribe and continue to hold at least 5% (ten per cent) of the subscribed and paid up equity of the SPV until the end of Concession Period, and has either by itself or through its Associate, experience of 5 (five) years or more in operation and maintenance (O&M) of Category 1 or Category 2 projects specified in Clause 3.2.1, which have an aggregate capital cost equal to the Estimated Project Cost. In case the Applicant is not a Consortium, it shall be eligible only if it has equivalent experience of its own or through its Associates.
  1. **Number of Bids**

A Bidder is eligible to submit only one Bid for the Project. A Bidder applying 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.

* 1. **Bid and other costs**

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

* 1. **Site visit and verification of information** 
     1. Bidders are encouraged to submit their respective Bids after visiting the Project site at their own cost 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.

For any assistance in respect to the site visit to the Bidders, Bidders can contact the following persons at the address given below:

|  |  |
| --- | --- |
| **The Managing Director,**  **Karnataka Tourism Infrastructure Limited,**  **No. 3, 4th Floor, Sungard - ATS, Embassy Icon,**  **Infantry Road, Vasanth Nagar,**  **Bengaluru – 560001;**  **e-mail: ktilkarnataka@gmail.com** |  |

* 1. **Acknowledgement by Bidder:** 
     1. It shall be deemed that by submitting the Bid, the Bidder has:

1. made a complete and careful examination of the Bidding Documents;
2. received all relevant information requested from the Authority;
3. acknowledged and accepted the risk of inadequacy, error or mistake in the information provided in the Bidding Documents or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.6.1 above;
4. satisfied itself about all matters, things and information including matters referred to in Clause 2.6.1 hereinabove necessary and required for submitting an informed Bid, execution of the Project in accordance with the Bidding Documents and performance of all of its obligations there under;
5. acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Bidding Documents or ignorance of any of the matters referred to in Clause 2.6.1 hereinabove shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits, etc. from the Authority, or a ground for termination of the Concession Agreement; and
6. agreed to be bound by the undertakings provided by it under and in terms hereof.
   * 1. The Authority shall not be liable for any omission, mistake or error on the part of the Bidder in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFP or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.
   1. **Right to accept or reject any or all Bids** 
      1. Notwithstanding anything contained in this RFP, the Authority reserves the right to accept or reject any Bid and to annul the Bidding Process and reject all Bids, at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons. In the event the Authority rejects or annuls all the Bids, it may, in its discretion, invite all eligible Bidders to submit fresh Bids hereunder.
      2. The Authority reserves the right to reject any Bid and appropriate the Bid Security if:
7. at any time, a material misrepresentation is made or uncovered, or
8. 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 and in this event, if the Bidder is a Consortium, then the entire Consortium shall be disqualified / rejected.

* + 1. 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 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 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 Bidder, without the Authority being liable in any manner whatsoever to the Bidder or Concessionaire, as the case may be. In such an event, the Authority shall forfeit and appropriate the Bid Security or Construction Period Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority, without prejudice to any right or remedy that may be available to the Authority.
    2. The Authority reserves right to verify all statements, information and documents submitted by the Bidder in response to the RFP. Failure of the Authority to undertake such verification shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of the Authority there under.

## DOCUMENTS

* 1. Contents of the RFP
     1. This RFP (Volume-I) comprises the disclaimer set forth hereinabove, the contents as listed below, and will additionally include any Addenda issued in accordance with Clause 2.11.3.

Section 1 Introduction

Section 2 Instructions to Bidders

Section 3 Criteria for Evaluation

Section 4 Fraud & Corrupt Practices

Section 5 Pre Bid Conference

Section 6 Miscellaneous

Appendices

I Format for Bid

Annex – I Details of Bidder

Annex – II Technical Capacity of Bidder

Annex – III Financial Capacity of Bidder

Annex – IV Statement of Legal Capacity

II Power of Attorney for signing of Bid

III Power of Attorney for Lead Member of Consortium

IV Format of Price Bid

V Joint Bidding Agreement for Consortium

VI - Certificate regarding Compliance with Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs)

* + 1. The draft Concession Agreement (Volume II)
    2. The Project Information Memorandum (Volume III)
  1. **Clarifications** 
     1. Bidders requiring any clarification on the RFP may notify the Authority in writing or email in accordance with Clause 2.11.1. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.2.9. The Authority shall endeavour to respond to the queries within the period specified therein. The Authority will upload the response to the queries on its website without identifying the source of queries.
     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. 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 RFP. Verbal clarifications and information given by Authority or its employees or representatives shall not in any way or manner be binding on the Authority.
     4. The Bidders shall note that reliance upon information/ clarification that is provided by any other source shall be at the risk of the Bidders.
  2. **Amendment of RFP** 
     1. Interested Bidder requiring any clarification on the RFP document may notify to the Authority to the address specified in Clause 1.2.9 before the last date of receiving queries mentioned in Clause 1.2.9, Schedule of Bidding Process in writing or by email to the officer designated in Clause 1.2.9. The envelopes / communications shall clearly bear the following identification / title:

**“Queries/ Request for Additional Information: Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis”.**

* + 1. At any time prior to the deadline for submission of Bid, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by any Bidder, modify the RFP by the issuance of Addenda.
    2. Any Addendum thus issued will be uploaded on the Karnataka Public Procurement Portal viz. <https://kppp.karnataka.gov.in> without identifying the source of queries and the published details shall be binding on the participating Bidders.
    3. In order to afford the Bidders a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, at its own discretion, extend the Bid Due Date. Information about extension of the Bid Due Date will be published on Karnataka Public Procurement Portal viz. https://kppp.karnataka.gov.in.

## PREPARATION AND SUBMISSION OF BID

* 1. **Language**

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

* 1. **Format and signing of Bid** 
     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. Incomplete and /or conditional Bids shall be liable to rejection.
     2. The Bid shall be typed and signed in indelible ink by the authorised signatory of the. All the alterations, omissions, additions or any other amendments made to the Bid shall be initialled by the person(s) signing the Bid.
  2. **Sealing and Marking of Bids** 
     1. The Bidder shall submit the Bid the Technical Bid & Financial Bid online through Karnataka Public Procurement Portal <https://kppp.karnataka.gov.in> comprising of the following documents along with supporting documents as appropriate:.

Technical Bid

1. Bid in the prescribed format (Appendix I) along with Annexure and supporting documents;
2. Power of Attorney for signing the Bid as per the format at Appendix II;
3. if applicable, the Power of Attorney for Lead Member of Consortium as per the format at Appendix III;
4. copy of the Jt. Bidding Agreement, in case of a Consortium, substantially in the format at Appendix V;
5. copy of Memorandum and Articles of Association, if the Bidder/Consortium member is a body corporate, and if a partnership then a copy of its partnership deed;
6. copies of Bidder’s/ each Consortium member’s duly audited balance sheet and profit and loss account for the preceding financial year; and
7. any other sector or project specific requirement that may be specified by the Authority.
8. A copy of the RFP and draft Concession Agreement with each page initialled by the person signing the Bid in pursuance of the Power of Attorney referred hereinabove.

Financial Bid shall be submitted online in the Karnataka Public Procurement Portal viz. <https://kppp.karnataka.gov.in>; and its shall consist of the Price Bid, which is required to be furnished in the format at Appendix IV, clearly indicating the bid amount in both figures and words, in Indian Rupees, and signed by the Bidder’s authorized signatory. In the event of any difference between figures and words, the amount indicated in words shall be considered.

* + 1. Bids submitted by fax, telex, telegram or email shall not be entertained and shall be rejected.
  1. **Bid Due Date** 
     1. Technical & Financial Bid comprising of the documents listed at clause 2.14.1 of the RFP shall be submitted online through Karnataka Public Procurement Portal <https://kppp.karnataka.gov.in> on or before the date and time specified in Clause 1.2.9. The Authority may, in its sole discretion, extend the Bid Due Date by issuing an Addendum in accordance with Clause 2.11.3 uniformly for all Bidders.
  2. **Late Bids**

Karnataka Public Procurement Portal <https://kppp.karnataka.gov.in> shall not allow submission of any Bid after the prescribed date and time specified in Clause 1.2.9.

* 1. **Modifications/ substitution/ withdrawal of Bids**
     1. The Bidder may modify, substitute or withdraw its Bid after submission, prior to Bid Due Date. No Bid shall be modified, substituted or withdrawn by the Bidder on or after the Bid Due Date.
     2. For modification of e-Bid, Bidder has to detach its old Bid from Karnataka Public Procurement Portal and upload / resubmit digitally signed modified Bid. For withdrawal of Bid, a Bidder has to click on withdrawal icon at Karnataka Public Procurement Portal and can withdraw its e-Bid. Before withdrawal of a Bid, it may specifically be noted that after withdrawal of a Bid for any reason, Bidder cannot re-submit e-Bid again.

## EVALUATION PROCESS

* 1. **Opening and Evaluation of Bids**

* + 1. The Authority shall open the Bids at the specified time on the Bid Due Date, at the place specified in Clause 1.2.9 and in the presence of the Bidders who choose to attend.
    2. Bids for which a notice of withdrawal has been submitted in accordance with Clause 2.17 shall not be opened.
    3. The Authority will subsequently examine and evaluate Bids in accordance with the provisions set out in Section 3.
    4. Bidders are advised that qualification of Bidders will be entirely at the discretion of the Authority. Bidders will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
    5. Any information contained in the Bid shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Bidder if any Project is subsequently awarded to it under the Bidding Process on the basis of such information.
    6. 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.

* + 1. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications in writing from any Bidder regarding its Bid.
  1. **Confidentiality**

Confidentiality Information relating to the examination, clarification, evaluation, and recommendation for the pre-qualified Bidders 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 Bid, 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.

* 1. **Tests of responsiveness** 
     1. Prior to evaluation of Bids, the Authority shall determine whether each Bid is responsive to the requirements of the RFP. A Bid shall be considered responsive only if:

1. Technical Bid is received online as per the format at Appendix I.
2. Technical Bid is accompanied by the Power(s) of Attorney as specified in Clause 2.2.4 and Clause 2.2.5 (c);
3. Technical Bid contains all the information (complete in all respects) as requested in this RFP;
4. Technical Bid contains information in formats same as those specified in this RFP;
5. Technical Bid is accompanied by the Jt. Bidding Agreement (for Consortium), specific to the Project, as stipulated in Clause 2.2.5 (f);
6. Technical Bid is accompanied by the Bid Security as specified in Clause 1.2.7;
7. Technical Bid does not contain any condition or qualification; and
8. it is not non-responsive in terms hereof.
   * 1. Bidders may note that the Authority will not entertain any deviations to the RFP at the time of submission of the Bid or thereafter. The Bid to be submitted by the Bidders would have to be unconditional and unqualified and the Bidders would be deemed to have accepted the terms and conditions of the RFP with all its contents including the draft Concession Agreement. Any conditional Bids shall be regarded as non-responsive and would be liable for rejection.

* + 1. 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.
  1. **Clarifications**

1. To facilitate evaluation of Bids, the Authority may, at its sole discretion, seek clarifications from any Bidder regarding its Bid. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) shall be in writing.
2. If a Bidder does not provide clarifications sought under sub-clause (a) above within the prescribed time, its Bid shall be liable to be rejected. In case the Bid is not rejected, the Authority may proceed to evaluate the Bid by construing the particulars requiring clarification to the best of its understanding, and the Bidder shall be barred from subsequently questioning such interpretation of the Authority.

## QUALIFICATION AND BIDDING

* 1. **Qualification and notification**

After the evaluation of Bids, the Authority would announce a list of pre-qualified Bidders who will be eligible for participation in the Bid Stage. At the same time, the Authority would notify the other Bidders that they have not been pre-qualified. The Authority will not entertain any query or clarification from Bidders who fail to qualify.

* 1. **Submission of Bids**

Price Bids for only pre-qualified Bidders shall be opened by the Authority. The Bidders are therefore advised to visit the site(s) and familiarise themselves with the Project by the time of submission of the Bid. No extension of time is likely to be considered for submission of Bids pursuant to invitation that may be issued by the Authority.

* 1. **Proprietary data**

All documents and other information supplied by the Authority or submitted by a Bidder to the Authority shall remain or become the property of the Authority. 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 Authority will not return any Bid or any information provided along therewith.

* 1. **Correspondence with the Bidder**

The Authority shall not entertain any correspondence with any Bidder in relation to the acceptance or rejection of any Bid.

* 1. **Other conditions** 
     1. A Bidder is eligible to submit only one Bid for the Project. A Bidder bidding individually or as a Lead member of a Consortium shall not be entitled to submit another bid either individually or as a member of any Consortium, as the case may be.
     2. Notwithstanding anything to the contrary contained in this RFP, the detailed terms specified in the draft 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. The Bidding Documents including this RFP and all attached documents are and shall remain 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 Authority will not return any Bid or any information provided along therewith.
     4. Any award of Concession pursuant to this RFP shall be subject to the terms and conditions set out in the Bidding Documents.

## BID SECURITY

* 1. **Bid Security** 
     1. The Bidder shall furnish as part of its Bid, a Bid Security referred to in Clause 1.2.7 hereinabove and having a validity period of not less than 180 days from the Bid Due Date, exclusive of a claim period of 60 days.
     2. Any Bid not accompanied by the Bid Security shall be rejected by the Authority as non- responsive.
     3. The Bid Security of unsuccessful Bidders will be returned by the Authority, without any interest, as promptly as possible on acceptance of the Bid of the Selected Bidder or when the Bidding Process is cancelled by the Authority.
     4. The Selected Bidder’s Bid Security will be returned, without any interest, upon the Bidder signing the Concession Agreement and furnishing the Construction Period Performance Security in accordance with the provisions of the Bidding Documents.
     5. The Authority shall be entitled to forfeit and appropriate Bid Security mutually agreed genuine pre-estimated compensation / damages to the Authority in any of the events specified in Clause 2.27.7 herein below.
     6. The Bidder, by submitting its Bid pursuant to this RFP, shall be deemed to have acknowledged and confirmed that the Authority will suffer loss and damage on account of withdrawal of its Bid or for any other default by the Bidder during the period of Bid validity period. No relaxation of any kind on Bid Security shall be given to any Bidder.
     7. The Bid Security shall be forfeited and appropriated by the Authority as mutually agreed genuine pre-estimated compensation and damages payable to the Authority for, inter alia, time, cost and effort of the Authority without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise, under the following conditions:

1. If a Bidder submits a non-responsive Bid;
2. 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;
3. If a Bidder withdraws its Bid during the period of Bid validity as specified in this RFP and as extended by the Bidder from time to time;
4. In the case of Selected Bidder, if it fails within the specified time limit:
   1. to make payments as per this RFP; and/or
   2. to sign the Concession Agreement; and/or
   3. to furnish the Construction Period Performance Security within the period prescribed in the LOA.
5. In case the Selected Bidder, having signed the Concession Agreement, commits any breach thereof prior to furnishing the Construction Period Performance Security.

# 3. CRITERIA FOR EVALUATION OF BIDS

1. **CRITERIA FOR EVALUATION OF BIDS** 
   1. **Evaluation parameters for Qualification Stage** 
      1. Only those Bidders who meet the eligibility criteria specified in Clauses 2.2.2 above shall qualify for evaluation under this Section 3. Bids of firms/ consortia who do not meet these are criteria shall be rejected.
      2. The Bidder’s competence and capability is proposed to be established by the following parameters:
2. Technical Capacity; and
3. Financial Capacity
   1. **Technical Capacity for purposes of evaluation** 
      1. Subject to the provisions of Clause 2.2.2, the following categories of experience would qualify as Technical Capacity and eligible experience (the **"Eligible Experience"**) in relation to eligible projects as stipulated in Clauses 3.2.3 and 3.2.4 (the **"Eligible Projects"**):

Category 1: Project Experience on Eligible Projects in Hospitality sector that qualify under Clause 3.2.3

Category 2: Project Experience on Eligible Projects in Core Sector that qualify under Clause 3.2.3

Category 3: Construction/operation experience on Eligible Projects in Hospitality Sector that qualify under Clause 3.2.4

Category 4: Construction on Eligible Projects in Core Sector that qualify under Clause 3.2.4

For the purpose of this clause 3.2.1:

1. **‘Project Experience’** shall mean the experience of the Bidder in the overall development and implementation of an Eligible project which include design, construction, finance, operation & maintenance of that project;
2. **‘Construction experience’** shall mean the experience of the Bidder in the construction/operation of the Eligible project; For Category 3 projects, the operation experience would be considered as Eligible Project;
3. ‘**Hospitality sector**’ would be deemed to include wayside amenities, hotels, resorts, Food court, Restaurant, cultural haat, Banquet Hall/Convention Centre/MICE Facilities, and;
4. ‘**Hospitality and Core Sector’** would be deemed to include any other Tourism Infrastructure Projects as defined in Karnataka Tourism Policy 2020-26, Commercial Complexes, Office/IT Parks and real estate development (excluding residential flats unless they form part of a real estate complex or township which has been built by the Bidder) .
   * 1. Eligible Experience in respect of each category shall be measured only for Eligible Projects.
     2. For a project to qualify as an Eligible Project under Categories 1 and 2:
5. It should have been undertaken as a PPP project on BOT, BOLT, BOO, BOOT or other similar basis for providing its output or services to a public sector entity or for providing non-discriminatory access to users in pursuance of its charter, concession or contract, as the case may be. For the avoidance of doubt, a project which constitutes a natural monopoly such as an airport or port should normally be included in this category even if it is not based on a long-term agreement with a public entity;
6. the entity claiming experience should have held, in the company owning the Eligible Project, a minimum of 26% (twenty-six per cent) equity during the entire year for which Eligible Experience is being claimed;
7. the capital cost of the project should be more than **Rs. 2,89,00,000/- (Two Crore Eighty-Nine Lakhs only)[[5]](#footnote-5)** and
8. the entity claiming experience shall, during the past 5 (five) financial years preceding the Bid Due Date, have (i) paid for development of the project (excluding the cost of land), and/ or (ii) collected and appropriated the revenues from users availing of non-discriminatory access to or use of fixed project assets, such as revenues from Hospitality and Core sector infrastructure, but shall not include other incomes of the company owning the Project.
   * 1. For a project to qualify as an Eligible Project under Categories 3 and 4, the Bidder should have paid for execution of its construction works or received payments from its client(s) for construction works executed, fully or partially, during the 5 (five) financial years immediately preceding the Bid Due Date, and only the payments (gross) actually made or received, as the case may be during such 5 (five) financial years shall qualify for purposes of computing the Experience Score. However, payments/receipts of less than **Rs. 2,89,00,000/- (Two Crore Eighty-Nine Lakhs only)[[6]](#footnote-6)** shall not be reckoned as payments/receipts for Eligible Projects. For the avoidance of doubt, construction works shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. Further, the cost of land shall not be included hereunder.

Note: In case of Projects under Category-3, payments made/received for operation of Eligible Projects may be included.

* + 1. The Bidder shall quote experience in respect of a particular Eligible Project under any one category only, even though the Bidder (either individually or along with a member of the Consortium) may have played multiple roles in the cited project. Double counting for a particular Eligible Project shall not be permitted in any form.
    2. Experience for any activity relating to an Eligible Project shall not be claimed by two or more members of the Consortium. In other words, no double counting by a Consortium in respect of the same experience shall be permitted in any manner whatsoever.
  1. **Details of Experience** 
     1. The Bidder should furnish the details of Eligible Experience for the past 5 (five) years immediately preceding the Bid Due date.
     2. The Bidders must provide the necessary information and evidence in support to its claim relating to Technical Capacity as per format at Annex II of Appendix I.
     3. The Bidder should furnish the required project-specific information and evidence in support to its claim of Technical Capacity, as per format at Annex-IV of Appendix-I.
  2. **Financial information for purposes of evaluation** 
     1. The Bid must be accompanied by the Audited Annual Reports of the Bidder (of each member in case of a Consortium) for three preceding financial years from the Bid Due Date.
     2. In case the annual accounts for the latest financial year are not audited and therefore the Bidder could not make it available, the Bidder shall give an undertaking to the same effect and the statutory auditor shall certify the same. In such a case, the Bidder shall provide the Audited Annual Reports for the three years preceding the year for which the Audited Annual Report is not being provided.
     3. The Bidder must establish a minimum Net Worth and Average Annual Turnover as specified in Clause 2.2.2(10.vi.B) and provide details as per format at Annex III of Appendix I.

* 1. **Qualification of Bidders**

The credentials of eligible Bidders shall be measured in terms of their Technical and Financial Capacity as per clause 2.2.2. In case of a Consortium, the credentials of Members with an equity share of at least 26% (twenty-six per cent) in the Consortium shall be considered for qualification.

* 1. **Bid Stage** 
     1. In the Bid Stage, Price Bids would be opened only for those Bidders who have been qualified in the Qualification Stage as per Clause 3.5.
     2. The Price Bids will be evaluated for the Project on the basis of the highest Annual Concession Fee (to be quoted in figures as well as words by Bidders in their Price Bids) to be paid by a Bidder as per Clause 1.2.8.

* + 1. Price Bid is required to be furnished only in Karnataka Public Procurement Portal, clearly indicating the amount both in figures and words and signed by the Bidder’s authorized signatory. In the event of any difference between the figures and words, the amount indicated in words shall be considered.
    2. The Bidder adjudged as responsive in terms of Clause 2.20 and quoting the highest Annual Concession Fee offered to the Authority shall be declared as the selected Bidder (the **“Selected Bidder”**).
    3. In the event that two or more Bidders quote the same amount of Annual Concession Fee (the **"Tie Bidders"**), the Authority shall identify the Selected Bidder by draw of lots, which shall be conducted, with prior notice, in the presence of the Tie Bidders who choose to attend.
    4. 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 Security of such Bidder as mutually agreed genuine pre-estimated loss and damage suffered by the Authority on account of failure of the Selected Bidder to acknowledge the LOA.
    5. After acknowledgement of the LOA as aforesaid by the Selected Bidder execute the Concession Agreement within the period prescribed in Clause 1.2.9. The Selected Bidder shall not be entitled to seek any deviation in the Concession Agreement.
  1. **Contacts 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 from contacting by any means, the Authority and/or their employees/ representatives on matters related to the Bids under consideration.

* 1. **Project Development Expenses**

The Selected Bidder shall along with the acknowledgement of the Letter of Award, pay a non-refundable amount of Rs. 8,32,550/- (Rupees Eight Lakhs Thirty-Two Thousand Five Hundred and Fifty Only) plus applicable GST, towards Project Development Expenses by way of Demand Draft from a Nationalised Bank or a Scheduled Bank in favour of “The Managing Director, Karnataka Tourism Infrastructure Limited,” payable at Bengaluru.

# 4. FRAUD AND CORRUPT PRACTICES

1. **FRAUD AND CORRUPT PRACTICES**
   1. The Bidders and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process and subsequent to the issue of the 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 shall 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 forfeit and appropriate the Bid Security or Construction Period Performance Security, as the case may be, as mutually agreed genuine pre-estimated compensation and damages payable to the Authority towards, inter alia, time, cost and effort of the Authority, without prejudice to any other right or remedy that may be available to the Authority hereunder or otherwise.
   2. Without prejudice to the rights of the Authority under Clause 4.1 hereinabove and the rights and remedies which the Authority may have under the LOA or the Concession Agreement, 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.
   3. For the purposes of this Clause 4, the following terms shall have the meaning hereinafter respectively assigned to them:
2. **“Corrupt Practice”** means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of the 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); or (ii) engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the Concession Agreement, as the case may be, any person in respect of any matter relating to the Project or the LOA or the Concession Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;
3. **“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 or the execution of a contract to the detriment of the Authority, and includes collusive practice among the tenderers either prior to or after tender submission, designed to establish tender prices at artificial non-competitive levels and to deprive the Authority of the benefits of free and open competition;
4. **“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;
5. **“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
6. **“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.

# PRE-BID CONFERENCE

1. **PRE-BID CONFERENCE** 
   1. A Pre-Bid conference of the interested parties shall be convened as per the details provided in Clause 1.2.9. Interested parties shall contact persons given in Clause 2.6.1 above for any change in the venue / date / time for the Pre-Bid Conference. A maximum of three (3) representatives of each Bidder shall be allowed to participate on production of authority letter from the Bidder.
   2. Facility for attending the pre-bid conference by the Bidders through video conferencing would be made by the Authority. In case if a Bidder is desirous in participating the pre-bid conference through video conference shall at least 3 (three) working days before the scheduled Pre-Bid conference date mentioned in clause 1.2.9, request the Authority by mail for participation through video conference. The link for attending the meeting shall be shared by the Authority at least a day before the pre-bid meeting.
   3. During the course of Pre-Bid conferences, 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.
   4. The Bidder is advised to procure & study the Bidding Documents completely, undertake site visits and submit the queries in writing or by email to the Authority. The queries should be sent to the Authority at least 2 (two) working days before the scheduled Pre-Bid meeting.

# 6. MISCELLANEOUS

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

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

1. 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;
2. consult with any Bidder in order to receive clarification or further information;
3. retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Bidder; and/ or
4. 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.
   1. 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 herewith and waives any and all rights and/ or claims it may have in this respect, whether actual or contingent, whether present or future.

# APPENDICES

## APPENDIX I - Letter Comprising the Bid

(Refer Clause 2.9.1, 2.14.1 & 2.20.1)

*(To be submitted on the Letterhead of the Bidder/ Lead Member in case of a Consortium)*

Date\_\_\_\_\_\_\_\_\_

To,

The Managing Director,

Karnataka Tourism Infrastructure Limited,

No. 3, 4th Floor, Sungard - ATS, Embassy Icon,

Infantry Road, Vasanth Nagar,

Bengaluru – 560001

**Sub:** **Proposal for Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis**

Dear Sir,

1. With reference to your RFP dated \_\_\_\_\_\_\_\_\_\_\_\_[[7]](#footnote-7), I/we, having examined the RFP and understood its contents, hereby submit my/our Bid for the aforesaid project. The Bid is unconditional and unqualified.
2. I/ We acknowledge that the Authority will be relying on the information provided in the Proposal and the documents accompanying the Proposal for selection of the 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 Proposal are true copies of their respective originals.
3. This statement is made for the express purpose of qualifying as a Bidder for the development, construction, operation and maintenance of the aforesaid Project.
4. I/ We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Bid.
5. I/ We acknowledge the right of the Authority to reject our Bid without assigning any reason or otherwise and hereby waive our right to challenge the same on any account whatsoever.
6. I/We certify that in the last three years, we/ any of the Consortium Members[[8]](#footnote-8) or our/their Associates have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract by any public authority nor have had any contract terminated by any public authority for breach on our part.
7. I/ We declare that:
8. I/We have examined and have no reservations to the RFP, including any Addendum issued by the Authority;
9. I/ We do not have any conflict of interest in accordance with the RFP;
10. 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 4 of the RFP, 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
11. I/We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 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
12. the undertakings given by us along with the Proposal in response to the RFP for the Project were true and correct as on the date of making the Proposal and are also true and correct as on the Bid Due Date and I/we shall continue to abide by them.
13. 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 Projects, without incurring any liability to the Bidders, in accordance with Clause 2.18.6 of the RFP.
14. I/ We believe that we/ our Consortium meet(s) the requirements as specified in the RFP and are/ is qualified to submit a Bid.
15. I/ We declare that we/any Member of the Consortium, or our/its Associates are/ is not a Member of a/any other Consortium submitting a Bid for the Project.
16. I/We certify that in regard to matters other than security and integrity of country, we/any Member of the Consortium or any 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.
17. I/We further certify that in regard to matters relating to security and integrity of the country, we/any Member of the Consortium have not been charge-sheeted by any agency of the Government or convicted by a Court of Law for any offence committed by us or by any of our Associates.
18. 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.
19. I/We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the guidelines referred to above, we shall intimate the Authority of the same immediately.
20. I/ We acknowledge and undertake that our Consortium was qualified and short-listed on the basis of Technical Capacity and Financial Capacity of those of its Members who shall, for a period of 2 (two) 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 of the Concessionaire; and (ii) 5% (five per cent) of the Total Project Cost specified in the Concession Agreement. 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.

I/We acknowledge and undertake that, I/We shall have the direct equity shareholding in the issued and paid up equity capital of the Concessionaire, not less than 100% (one hundred percent) at all times commencing from the date of incorporation of the Concessionaire, until the Appointed Date.

1. I/ We acknowledge and undertake that I/We shall collectively hold at least 51% (fifty one per cent) of the subscribed and paid up equity of the Concessionaire at all times until the 2nd (second) anniversary of the commercial operation date of the Project.
2. I/ We acknowledge and undertake that any divestment thereafter shall be subject to the prior consent of the Authority (which shall not be unreasonably denied by the Authority) and at the option of the Authority, be accompanied by suitable no objection letters from the lenders.
3. 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 Closure of the Project, it would, notwithstanding anything to the contrary contained in the Agreement, be deemed a breach thereof, and the Concession Agreement shall be liable to be terminated without the Authority being liable to us in any manner whatsoever.
4. I/ We understand that the Selected Bidder shall incorporate a Special Purpose Vehicle as a company under the Indian Companies Act, 2013, prior to execution of the Concession Agreement.
5. I/We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of the Bidder, or in connection with the Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
6. 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.
7. I/We have studied all the Bidding Documents carefully and also surveyed the Project Site. We understand that except to the extent as expressly set forth in the 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 concerning or relating to the Bidding Process including the award of Concession.
8. I/We, hereby irrevocably waive any right which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Bidders, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Projects and the terms and implementation thereof.
9. I/We have submitted a Bid Security as specified in Clause 1.2.7 to the Authority in accordance with the RFP.
10. The Statement of Legal Capacity as per format provided at Annex IV in Appendix I of the RFP document, and duly signed, is enclosed. The power of attorney for signing of Bid and the power of attorney for Lead Member of consortium, as per format provided in the RFP, are also enclosed.
11. I/We agree and understand that the Bid is subject to the provisions of the Bidding Documents. In no case, I/We shall have any claim or right of whatsoever nature if the Project / Concession is not awarded to me/us or our Bid is not opened or rejected.
12. The Annual Concession Fee 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 costs and revenues and after a careful assessment of the Project Site and all the conditions that may affect the Project cost and implementation of the Project.
13. I/We agree and undertake to abide by all the terms and conditions of the RFP.
14. {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 Financial Closure in accordance with the Concession Agreement.}
15. I/We shall keep this offer valid for 180 (one hundred and eighty) days from the Bid Due Date specified in the RFP.

In witness thereof, I/We submit this Bid under and in accordance with the terms of the RFP.

Yours faithfully,

(Signature of the Authorised signatory)

Date:

Place:

(Name and designation of the of the Authorised signatory)

Name and seal of Bidder/Lead Firm

Note: Paragraphs in curly parenthesis may be omitted by the Bidder, if not applicable to it, or modified as necessary to reflect Bidder specific particulars.

**Annex I to Appendix I**

### Details of Bidder

*(To be submitted on the Letterhead of the Bidder/ Lead Member in case of a Consortium)*

1. (a) Name:

(b) Country of incorporation:

(c) Address of the corporate headquarters and its branch office(s), if any, in India:

(d) Date of incorporation and/or commencement of business:

1. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Projects:
2. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
3. Name:
4. Designation:
5. Company:
6. Address:
7. Telephone Number:
8. E-Mail Address:
9. Mobile Number:
10. Particulars of the Authorised Signatory of the Bidder:
11. Name:
12. Designation:
13. Company:
14. Address:
15. Telephone Number:
16. E-Mail Address:
17. Mobile Number:
18. In case of a Consortium:
19. The information above (1-4) should be provided for all the members of the Consortium.
20. A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.5(f) should be attached to the Bid.
21. Information regarding role of each member should be provided as per table below:

|  |  |  |  |
| --- | --- | --- | --- |
| No. | Name of Member | Role {Refer Clause 2.2.5(d)} | Percentage of equity in the Consortium {Refer Clauses 2.2.5(a), (c) & (f)} |
|  |  |  |  |
|  |  |  |  |

1. The following information shall also be provided for each member of the Consortium:

Name of Bidder/ member of Consortium:

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

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

**Annex II to Appendix I**

### Technical Capacity of the Bidder[[9]](#footnote-9)

(Refer to Clauses 2.2.2(1.a.i.I.A), 3.2 and 3.3 of the RFP)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| **Bidder type #** | **Member**  **Code\*** | **Project**  **Code\*\*** | **Category**  **$** | **Experience** ¥  (Equivalent Rs. crore) $$ | | |
| Payments made/received for construction of Eligible Projects in Categories 3 and 4 | Payments made for development of Eligible  Projects in Categories 1 and 2 | Revenues appropriated from Eligible Projects in Categories 1 and 2 |
| (1) | (2) | (3) | (4) | (5) | (6) | (7) |
| Single entity Bidder |  | A |  |  |  |  |
| B |  |  |  |  |
| C |  |  |  |  |
| D |  |  |  |  |
| Lead Member |  | 1a |  |  |  |  |
| 1b |  |  |  |  |
| 1c |  |  |  |  |
| 1d |  |  |  |  |
| Consortium  Member |  | 2a |  |  |  |  |
| 2b |  |  |  |  |
| 2c |  |  |  |  |
| 2d |  |  |  |  |
| Total | | |  |  |  |  |

*@ Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause 2.2.8 and/ or by a project company eligible under Clause 3.2.3 (b). In case of Categories 1 and 2, include only those projects which have an estimated capital cost exceeding the amount specified in Clause 3.2.3 (c) and for Categories 3 and 4, include only those projects where the payments made/received exceed the amount specified in Clause 3.2.4. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.11.*

*# A Bidder consisting of a single entity should fill in details as per the row titled Single entity Bidder and ignore the rows titled Lead & Consortium Members. In case of a Consortium, the row titled Single entity Bidder may be ignored. In case credit is claimed for an Associate, necessary evidence to establish the relationship of the Bidder with such Associate, in terms of Clause 2.2.8, shall be provided.*

*\* Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead Member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member, OM means Other Member.*

*\*\* Refer Annex-IV of this Appendix-I. Add more rows if necessary.*

*$ Refer Clause 3.2.1.*

*¥ In the case of Eligible Projects in Categories 1 and 2, the figures in columns 6 and 7 may be added for computing the Experience Score of the respective projects. In the case of Categories 3 and 4, construction shall not include supply of goods or equipment except when such goods or equipment form part of a turn-key construction contract/ EPC contract for the project. In no case shall the cost of land be included while computing the Experience Score of an Eligible Project.*

*$$ For conversion of US Dollars to Rupees, the rate of conversion shall be Rs.84 (Rupees eighty four only) to a US Dollar. In case of any other currency, the same shall first be converted to US Dollars as on the date 60 (sixty) days prior to the Bid Due Date, and the amount so derived in US Dollars shall be converted into Rupees at the aforesaid rate. The conversion rate of such currencies shall be the daily representative exchange rates published by the International Monetary Fund for the relevant date.*

**Annex III to Appendix I**

### Financial Capacity of the Bidder

(Refer to Clauses 2.2.2(10.vi.B), 2.2.3 (iii) and 3.4 of the RFP)

*(To be submitted on the Letterhead of the Bidder/ Lead Member in case of a Consortium)*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Bidder type $** | **Member**  **Code £** | **Net Worth €**  **(in Rs. crore) $$** | **Annual Turnover in Rs. Crore** | | |
|  |  | 2023-24 | 2021-22 | 2022-23 | 2023-24 |
| Single entity Bidder |  |  |  |  |  |
| Lead Member |  |  |  |  |  |
| Consortium Member |  |  |  |  |  |
| TOTAL |  |  |  |  |  |

**Name and address of Bidder’s Bankers:**

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

£ For Member Code, see instruction 4 at Annex-IV of this Appendix-I.

€ The Bidder should provide details of its own Financial Capacity or of an Associate specified in Clause 2.2.9.

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

**Instructions:**

1. The Bidder/ its constituent consortium members shall attach copy of the balance sheet, financial statements and annual report for three financial years preceding the Bid Due Date. The financial statement shall:
   1. reflect the financial situation of the Bidder and its Associates where the Bidder is relying on its Associate’s financials;
   2. be audited by a statutory auditor;
   3. be complete, including all notes to the financial statements; and
   4. correspond to accounting periods already completed and audited (no statements for partial periods shall be requested or accepted).
2. Net Worth shall mean (Subscribed and Paid-up Equity + Reserves) less (Revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders).
3. In case of Consortium, a copy of the Jt. Bidding Agreement shall be submitted in accordance with Clause 2.2.5 (f) of the RFP.
4. The Bidder shall also provide the name and address of the Bankers to the Bidder.
5. The Bidder shall provide an Auditor’s Certificate specifying the net worth and average annual turnover of the Bidder and also specifying the methodology adopted for calculating such net worth and average annual turnover in accordance with Clause 2.2.3 of the RFP.

**ANNEX-IV to Appendix I**

**Details of Eligible Projects**

(*Refer to Clauses 2.2.2(A), 3.2 and 3.3 of the RFP*)

**Project Code: Member Code:**

|  |  |  |
| --- | --- | --- |
| **Item** | **Refer**  **Instruction** | **Particulars of the Project** |
| Title & nature of the project |  |  |
| Category | 5 |  |
| Year-wise (a) payments received/ made for construction, (b) payments made for development of PPP projects and/or (c) revenues appropriated | 6 |  |
| Entity for which the project was constructed/ developed | 7 |  |
| Location |  |  |
| Project cost | 8 |  |
| Date of commencement of project/ contract |  |  |
| Date of completion/ commissioning | 9 |  |
| Equity shareholding (with period during which equity was held) | 10 |  |
| Whether credit is being taken for the Eligible Experience of an Associate (Yes/ No) | 15 |  |

**Instructions:**

1. Bidders are expected to provide information in respect of Eligible Projects in this Annexure. The projects cited must comply with the eligibility criteria specified in Clause 3.2.3 and 3.2.4 of the RFP, as the case may be. Information provided in this section is intended to serve as a back-up for information provided in the Bid. Bidders should also refer to the Instructions below.

2. For a single entity Bidder, the Project Codes would be a, b, c, d etc. In case the Bidder is a Consortium then for Member 1, the Project Codes would be 1a, 1b, 1c, 1d etc., for Member 2 the Project Codes shall be 2a, 2b, 2c, 2d etc., and so on.

3. A separate sheet should be filled for each of the Eligible Projects.

4. Member Code shall indicate NA for Not Applicable in case of a single entity Bidder. For other Members, the following abbreviations are suggested viz. LM means Lead member, TM means Technical Member, FM means Financial Member, OMM means Operation & Maintenance Member; and OM means Other Member. In case the Eligible Project relates to an Associate of the Bidder or its Member, write “Associate” along with Member Code.

5. Refer Clause 3.2.1 of the RFP for category number.

6. The total payments received/ made or revenues appropriated for each Eligible Project are stated in Annex-II of this Appendix-I. The figures to be provided here should indicate the break-up for the past **5 (five)** financial years. Year 1 refers to the financial year immediately preceding the Bid Due Date; Year 2 refers to the year before Year 1, Year 3 refers to the year before Year 2, and so on. (Refer Clause 3.2.1). For Categories 1 and 2, expenditure on development of the project and/or revenues appropriated, as the case may be, should be provided, but only in respect of projects having an estimated capital cost exceeding the amount specified in Clause 3.2.3 (c). In case of Categories 3 and 4, payments made/ received only in respect of construction should be provided, but only if the amount paid/received exceeds the minimum specified in Clause 3.2.4. Payment for construction works should only include capital expenditure, and should not include expenditure on repairs and maintenance.

7. In case of Categories 1 and 2 projects, particulars such as name, address and contact details of owner/ Authority/ Agency (i.e. concession grantor, counter party to PPA, etc.) may be provided. In case of Categories 3 and 4 projects, similar particulars of the client need to be provided.

8. Provide the estimated capital cost of Eligible Project. Refer to Clauses 3.2.3 and 3.2.4

9. For Categories 1 and 2, the date of commissioning/likely date of commissioning of the project, should be indicated. In case of Categories 3 and 4, date of completion of construction/likely date of completion of construction should be indicated.

10. For Categories 1 and 2, the equity shareholding of the Bidder, in the company owning the Eligible Project, held continuously during the period for which Eligible Experience is claimed, needs to be given (Refer Clause 3.2.3).

11. Experience for any activity relating to an Eligible Project shall not be claimed by two or more members of the Consortium. In other words, no double counting by a consortium in respect of the same experience shall be permitted in any manner whatsoever.

12. Certificate from the Bidder’s statutory auditor[[10]](#footnote-10)$ or its respective clients must be furnished as per formats below for each Eligible Project. In jurisdictions that do not have statutory auditors, the auditors who audit the annual accounts of the Bidder/ Member/Associate may provide the requisite certification.

13. If the Bidder is claiming experience under Categories 1 & 2[[11]](#footnote-11)£, it should provide a certificate from its statutory auditor in the format below:

|  |
| --- |
| **Certificate from the Statutory Auditor regarding PPP projects[[12]](#footnote-12)Φ**  Based on its books of accounts and other published information authenticated by it, this is to certify that …………………….. *(name of the Bidder/Member/Associate)* is/ was an equity shareholder in ……………….. *(title of the project company)* and holds/ held Rs. ………cr. (Rupees ………………………….. crore) of equity (which constitutes ……..%[[13]](#footnote-13)€ of the total paid up and subscribed equity capital) of the project company from …………... *(date)* to …………….. *(date)[[14]](#footnote-14)¥.* The project was/is likely to be commissioned on ……………. *(date of commissioning of the project)*.  We further certify that the total estimated capital cost of the project is Rs. ……… cr. (Rupees …………………crore), of which Rs. ……… cr. (Rupees …………… crore) of capital expenditure was incurred during the past 5 (five) financial years as per year-wise details noted below:  ………………………  ………………………  We also certify that the eligible annual revenues collected and appropriated by the aforesaid project company in terms of Clauses 3.2.1 and 3.2.3 (d) of the RFP during the past 5 (five) financial years were Rs. ……..… cr. (Rupees.............................. crore) as per year-wise details noted below:  ………………………  ………………………  Name of the audit firm:  Seal of the audit firm: (Signature, name and designation of the authorised signatory)  Date: |

14. If the Bidder is claiming experience under Category 3 & 4[[15]](#footnote-15)♣, it should provide a certificate from its statutory auditors or the client in the format given below:

|  |
| --- |
| **Certificate from the Statutory Auditor/ Client regarding construction works[[16]](#footnote-16)Φ**  Based on its books of accounts and other published information authenticated by it, this is  to certify that …………………….. *(name of the Bidder/Member/Associate)* was engaged by ……………….. *(title of the project company)* to execute ……………… *(name of project)* for …………………. *(nature of project)[[17]](#footnote-17)ψ*. The construction of the project commenced on ………….. *(date)* and the project was/ is likely to be commissioned on …………… *(date, if any)*. It is certified that ……………. *(name of the Bidder/ Member/ Associate)* received/paid Rs. ……….. cr. (Rupees …………………………… crore) by way of payment for the aforesaid construction works.  We further certify that the total estimated capital cost of the project is Rs. …… cr. (Rupees  …………………crore), of which the Bidder/Member/Associate received/paid Rs. ………  cr. (Rupees ……………………… crore), in terms of Clauses 3.2.1 and 3.2.4 of the RFP, during the past 5 (five) financial years as per year-wise details noted below:  ………………………  ………………………  *It is further certified that the payments/ receipts indicated above are restricted to the share of the Bidder who undertook these works as a partner or a member of joint venture/ consortium.[[18]](#footnote-18)♠*  Name of the audit firm:  Seal of the audit firm: (Signature, name and designation of the authorised signatory).  Date: |

15. In the event that credit is being taken for the Eligible Experience of an Associate, as defined in Clause 2.2.8, the Bidder should also provide a certificate in the format below:

|  |
| --- |
| **Certificate from Statutory Auditor/ Company Secretary regarding Associate[[19]](#footnote-19)$**  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[[20]](#footnote-20)£, by ……………….. (*name of Associate/ Bidder/ Consortium Member*). By virtue of the aforesaid share-holding, the latter exercises control over the former, who is an Associate in terms of Clause 2.2.8 of the RFP.  A brief description of the said equity held, directly or indirectly, is given below:  *Describe the share-holding 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.*  Name of the audit firm:  Seal of the audit firm: (Signature, name and designation of the authorised signatory).  Date: |

16. 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 project in computation of Experience [[21]](#footnote-21)Φ.

**Annex V to Appendix I**

### Statement of Legal Capacity

(To be forwarded on the letterhead of the Bidder/ Lead Member of Consortium)

Ref.

Date:

To,

The Managing Director,

Karnataka Tourism Infrastructure Limited,

No. 3, 4th Floor, Sungard - ATS, Embassy Icon,

Infantry Road, Vasanth Nagar,

Bengaluru – 560001

**Sub: Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis**

Dear Sir,

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

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

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

Thanking you,

Yours faithfully

(Signature, name and designation of the authorised signatory)

For and on behalf of…………………………….

## APPENDIX II - Power of Attorney for Signing of Bid

(Refer Clause 2.2.4)

*(To be submitted on Stamp paper of relevant value)*

Know all men by these presents, We, \_\_\_\_\_\_\_\_\_\_\_\_ (name of the firm and address of the registered office) do hereby irrevocably constitute, nominate, appoint and authorise Mr. / Ms \_\_\_\_, son/daughter/wife of \_\_\_\_\_\_\_ and presently residing at \_\_\_\_\_\_\_\_, who is presently employed with us/ the Lead Member of our Consortium and holding the position of \_\_\_\_\_\_, as our true and lawful attorney (hereinafter referred to as the **“Attorney”**) to do in our name and on our behalf, all such acts, deeds and things as are necessary or required in connection with or incidental to submission of our bid for the Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis (the **“Project”**) proposed by the Karnataka Tourism Infrastructure Limited, Government of Karnataka (the **“Authority”**) including but not limited to signing and submission of all Bids, bids and other documents and writings, participate in bidders' 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

---------------------------

(Signature, name, designation and address)

Witnesses:

1.

2.

(Notarised)

Accepted

(Signature)

(Name, Title and Address of the Attorney)

**Notes:**

* The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
* Wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholder’s resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
* For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.

## APPENDIX III - Power of Attorney for Lead Member of Consortium

(Refer Clause 2.2.4)

*(To be submitted on Stamp paper of relevant value)*

Whereas the **“Authority”** has invited Bids from interested parties for the Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis.

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

Whereas, it is necessary for the Members of the Consortium to designate 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, M/s \_\_\_\_\_\_\_\_\_\_ having our registered office at \_\_\_\_\_\_\_\_\_\_ and M/s\_\_\_\_\_\_\_\_\_\_ having our registered office at \_\_\_\_\_\_\_\_\_\_ (the respective names and addresses of the registered office) (hereinafter collectively referred to as the **“Principals”**) do hereby irrevocably designate, nominate, constitute, appoint and 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 authorise the Attorney (with power to sub- delegate) to conduct all business for and on behalf of the Consortium and any one of us during the bidding process and, in the event the Consortium is awarded the concession/contract, during the execution of the Project and 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 pre-qualification of the Consortium and 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[s] of the Consortium and generally to represent the Consortium in all its dealings with 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\*\*

For ……………………. (Signature)

…………………….. (Name & Title)

For ……………………. (Signature)

…………………….. (Name & Title)

(Executants)

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

Witnesses:

1.

2. ………………………………………

Notes:

* The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executants and when it is so required, the same should be under common seal affixed in accordance with the required procedure.
* Also, wherever required, the Bidder should submit for verification the extract of the charter documents and documents such as a board or shareholders’ resolution/power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Bidder.
* For a Power of Attorney executed and issued overseas, the document will also have to be legalised by the Indian Embassy and notarised in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Bidders from countries that have signed The Hague Legislation Convention, 1961 are not required to be legalised by the Indian Embassy if it carries a conforming Appostille certificate.

## APPENDIX IV – Format of the Price Bid

[Price bid to be uploaded in the Karnataka Public Procurement Portal]

## APPENDIX V - Joint Bidding Agreement

(Refer Clause 2.2.5(f))

(To be executed on Stamp paper of appropriate value)

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

AMONGST

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

AND

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

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

WHEREAS

(A) Karnataka Tourism Infrastructure Limited, represented by its Managing Director and having its principal office at No. 3, 4th Floor, Sungard - ATS, Embassy Icon, Infantry Road, Vasanth Nagar, Bengaluru – 560001 (hereinafter referred to as the **“Authority”** which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited Bids (the **“Bids”**) by its RFP Notice No. ………… dated ………… (the **“RFP”**) for selection of bidders for Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis (the **“Project”**).

(B) The Parties are interested in jointly bidding for the Project as members of a Consortium and in accordance with the terms and conditions of the RFP and other bid documents in respect of the Project, and

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

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.

1. **Consortium** 
   1. The Parties do hereby irrevocably constitute a consortium (the **“Consortium”**) for the purposes of jointly participating in the Bidding Process for the Project.
   2. 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.
2. **Covenants**

The Parties hereby undertake that in the event the Consortium is declared the selected Bidder and awarded the Project, it shall from an appropriate Special Purpose Vehicle (the **“SPV”**) 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.

1. **Role of the Parties**

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

1. **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 Closure for the Project is achieved under and in accordance with the Concession Agreement.

1. **Shareholding in the Concessionaire**
   1. The Parties agree that the proportion of shareholding among the Parties in the Concessionaire shall be as follows:

First Party:

Second Party:

Third Party:

* 1. The parties 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 Concessionaire and shall further commit that each such member shall, for a period of 2 (two) years from the date of commercial operation of the Project, hold equity share capital not less than 26% (twenty-six per cent) of the subscribed and paid up equity share capital of the Concessionaire. the Consortium Member who is providing the O&M experience shall subscribe and continue to hold at least 5% (five percent) of the subscribed and paid up equity of the Concessionaire until the end of Concession Period.
  2. The parties commit that members of the Consortium shall collectively hold 51% (fifty-one percent) of the subscribed and paid up equity of the Concessionaire at all times until the 2nd (second) anniversary of the commercial operation date of the Project;
  3. The parties commit that any divestment thereafter shall be subject to the prior consent of the Authority (which shall not be unreasonably denied by the Authority) and at the option of the Authority, be accompanied by suitable no objection letters from the lenders;
  4. The Parties undertake that they shall comply with all equity lock-in requirements set forth in the Concession Agreement.

1. **Representation of the Parties**

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

1. 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;
2. 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:
   1. require any consent or approval not already obtained;
   2. violate any Applicable Law presently in effect and having applicability to it;
   3. violate the memorandum and articles of association, by-laws or other applicable organisational documents thereof;
   4. violate any clearance, permit, concession, grant, license or other governmental authorisation, 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
   5. 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;
3. this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and
4. there is no litigation pending or, to the best of such Party’s knowledge, threatened to which it or any of its Affiliates is a party that presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfilment of its obligations under this Agreement.
5. **Termination**

This Agreement shall be effective from the date hereof and shall continue in full force and effect until the Financial Closure 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 qualified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Bidder is not qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

1. **Miscellaneous** 
   1. This Joint Bidding Agreement shall be governed by laws of India.
   2. The Parties acknowledge and accept that this Agreement shall not be amended by the Parties without the prior written consent of the Authority.

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

SIGNED, SEALED AND DELIVERED

For and on behalf of

|  |  |
| --- | --- |
| LEAD MEMBER by:  (Signature)  (Name)  (Designation)  (Address) | SECOND PART by:  (Signature)  (Name)  (Designation)  (Address) |

In the presence of:

1.

2.

Notes:

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

## Appendix-VI - Certificate regarding Compliance with Restrictions under Rule 144 (xi) of the General Financial Rules (GFRs)

(Refer Clause2.2.1(c))

(To be on the letterhead of the Bidder/ Each Member of the Consortium)

The Managing Director,

Karnataka Tourism Infrastructure Limited,

No. 3, 4th Floor, Sungard - ATS, Embassy Icon,

Infantry Road, Vasanth Nagar,

Bengaluru – 560001

**Sub:** **Proposal for Development and Operation of Tourism Facilities at Banashankari in Karnataka on DBFOT Basis**

Dear Sir,

With reference to your RFP document dated \*\*\* \*\*$, I/we, having examined the Bidding Documents and understood their contents, hereby undertake and confirm as follows:

*I/We have read the clause regarding restrictions on procurement from a bidder of a country which shares a land border with India and on sub-contracting to contractors from such countries;*

*I certify that this Bidder is not from such a country or, if from such a country, has been registered with the Competent Authority as defined in* Government Order No. FD 455 Exp-12 2020 Bengaluru dated 1.04.2023 *and will not sub-contract any work to a contractor from such countries unless such contractor is registered with the Competent Authority.*

*I hereby certify that this bidder fulfils all requirements in this regard and is eligible to be considered.*

Date: Yours faithfully,

Place: (Signature of the Authorised signatory)

(Name and designation of the of the Authorised signatory) Name and seal of Bidder/Each Member of the Consortium

## Appendix-VII – Format of Bank Guarantee/E-Bank Guarantee for Bid Security

(Refer Clause 1.2.7)

B.G. No. Dated:

1. In consideration of you, \_\_\_\_, having its office at \_\_\_\_, (hereinafter referred to as the “Authority”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to receive the Proposal of \_\_\_(a company registered under the Companies Act 1956/2013) and having its registered office at \_\_\_\_\_ (hereinafter referred to as the “**Bidder**” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ (hereinafter referred to as “the Assignment”) pursuant to the RFP Document dated \_\_\_\_issued in respect of the Project and other related documents including without limitation the draft Concession Agreement (hereinafter collectively referred to as “RFP Documents”), we (Name of the Bank) having our registered office at \_\_\_\_\_\_\_ and one of its branches at \_\_\_\_\_\_\_ (hereinafter referred to as the “Bank”), at the request of the Bidder, do hereby in terms of Clause 1.2.7 of the RFP Document, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the RFP Documents by the said Bidder and unconditionally and irrevocably undertake to pay forthwith to the Authority an amount of INR \_\_\_\_\_ (Rupees \_\_\_\_\_ only) (hereinafter referred to as the “Guarantee”) as our primary obligation without any demur, reservation, recourse, contest or protest and without reference to the Bidder if the Bidder shall fail to fulfil or comply with all or any of the terms and conditions contained in the said RFP Documents.
2. Any such written demand made by the Authority stating that the Bidder is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the RFP Documents shall be final, conclusive and binding on the Bank.
3. We, the Bank, do hereby unconditionally undertake to pay the amounts due and payable under this Guarantee without any demur, reservation, recourse, contest or protest and without any reference to the Bidder or any other person and irrespective of whether the claim of the Authority is disputed by the Bidder or not, merely on the first demand from the Authority stating that the amount claimed is due to the Authority by reason of failure of the Bidder to fulfil and comply with the terms and conditions contained in the RFP Documents including failure of the said Bidder to keep its Proposal open during the Proposal validity period as setforth in the said RFP Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding INR \_\_\_\_ (Rupees \_\_\_\_\_\_\_ only).
4. This Guarantee shall be irrevocable and remain in full force for a period of 60 (sixty) days beyond the validity of the Proposal or for such extended period as may be mutually agreed between the Authority and the Bidder, and agreed to by the Bank, and shall continue to be enforceable till all amounts under this Guarantee have been paid.
5. We, the Bank, further agree that the Authority shall be the sole judge to decide as to whether the Bidder is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the RFP Documents including, *inter alia*, the failure of the Bidder to keep its Proposal open during the Proposal validity period set forth in the said RFP Documents, and the decision of the Authority that the Bidder is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the Authority and the Bidder or any dispute pending before any Court, Tribunal, Arbitrator or any other Authority.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Bidder or the Bank or any absorption, merger or amalgamation of the Bidder or the Bank with any other person.
7. In order to give full effect to this Guarantee, the Authority shall be entitled to treat the Bank as the principal debtor. The Authority shall have the fullest liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said RFP Documents or to extend time for submission of the Proposals or the Proposal validity period or the period for conveying acceptance of Letter of Award by the Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said RFP Documents by the said Bidder or to postpone for any time and from time to time any of the powers exercisable by it against the said Bidder and either to enforce or forbear from enforcing any of the terms and conditions contained in the said RFP Documents or the securities available to the Authority, and the Bank shall not be released from its liability under these presents by any exercise by the Authority of the liberty with reference to the matters aforesaid or by reason of time being given to the said Bidder or any other forbearance, act or omission on the part of the Authority or any indulgence by the Authority to the said Bidder or by any change in the constitution of the Authority or its absorption, merger or amalgamation with any other person or any other matter or thing whatsoever which under the law relating to sureties would but for this provision have the effect of releasing the Bank from its such liability.
8. Any notice by way of request, demand or otherwise hereunder shall be sufficiently given or made if addressed to the Bank and sent by courier or by registered mail to the Bank at the address set forth herein.
9. We undertake to make the payment on receipt of your notice of claim on us addressed to [name of Bank along with branch address] and delivered at our above branch which shall be deemed to have been duly authorised to receive the said notice of claim.
10. It shall not be necessary for the Authority to proceed against the said Bidder before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the Authority may have obtained from the said Bidder or any other person and which shall, at the time when proceedings are taken against the Bank hereunder, be outstanding or unrealised.
11. We, the Bank, further undertake not to revoke this Guarantee during its currency except with the previous express consent of the Authority in writing.
12. The Bank declares that it has power to issue this Guarantee and discharge the obligations contemplated herein, the undersigned is duly authorised and has full power to execute this Guarantee for and on behalf of the Bank.
13. For the avoidance of doubt, the Bank’s liability under this Guarantee shall be restricted to INR \_\_\_\_\_ (Rupees \_\_\_\_\_ only). The Bank shall be liable to pay the said amount or any part thereof only if the Authority serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before [\_\_\_\_\_\_ (indicate date falling 180 days after the last date for submission of Proposal)].

Signed and Delivered by ………………………. Bank

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

(Signature of the Authorised Signatory)

(Official Seal)

1. The amount is inclusive of GST at the applicable rate, which is 18% at present. The amount will be revised if the GST rates are revised in the interim. [↑](#footnote-ref-1)
2. Equal to twice the estimated project cost [↑](#footnote-ref-2)
3. 25% of the estimated project cost [↑](#footnote-ref-3)
4. 100% of the estimated project cost [↑](#footnote-ref-4)
5. 20% of the estimated project cost [↑](#footnote-ref-5)
6. 20% of the estimated project cost [↑](#footnote-ref-6)
7. All blank spaces shall be suitably filled up by the Bidder to reflect the particulars relating to such Bidder. [↑](#footnote-ref-7)
8. If the Bidder is not a consortium, the provisions applicable to consortium may be omitted. [↑](#footnote-ref-8)
9. Provide details of only those projects that have been undertaken by the Bidder under its own name and/ or by an Associate specified in Clause2.2.8. In case the Bid Due Date falls within 3 (three) months of the close of the latest financial year, refer to Clause 2.2.11. [↑](#footnote-ref-9)
10. $ *In case duly certified audited annual financial statements containing the requisite details are provided, a separate certification by statutory auditors would not be necessary.* [↑](#footnote-ref-10)
11. £ *Refer Clause 3.2.1 of the RFP.* [↑](#footnote-ref-11)
12. Φ *Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.* [↑](#footnote-ref-12)
13. € *Refer instruction no. 10 in this Annex-IV.* [↑](#footnote-ref-13)
14. ¥ *In case the project is owned by the Bidder company, this language may be suitably modified to read: “It is certified that …………….. (name of Bidder) constructed and/ or owned the ………........................….. (name of project) from ………………. (date) to …………………(date).”* [↑](#footnote-ref-14)
15. *♣ Refer Clauses 3.2.1 and 3.2.4 of the RFP.* [↑](#footnote-ref-15)
16. *Φ Provide Certificate as per this format only. Attach Explanatory Notes to the Certificate, if necessary. Statutory auditor means the entity that audits and certifies the annual accounts of the company.* [↑](#footnote-ref-16)
17. *ψ In case the Applicant owned the Eligible Project and engaged a contractor for undertaking the construction works, this language may be modified to read: “ this is to certify that …………… (name of Applicant/ Member/ Associate) held 26% or more of the paid up and subscribed share capital in the …………… (name of Project company) when it undertook construction of the ………………. (name of Project) through ………………… (name of the contractor).* [↑](#footnote-ref-17)
18. *♠ This certification should only be provided in case of jobs/ contracts, which are executed as part of a partnership/ joint venture/ consortium. The payments indicated in the certificate should be restricted to the share of Applicant in such partnership/ joint venture/ consortium. This portion may be omitted if the contract did not involve a partnership/ joint venture/ consortium. In case where work is not executed by partnership/ joint venture/ consortium, this paragraph may be deleted.* [↑](#footnote-ref-18)
19. *$ In the event that the Applicant/ Consortium Member exercises control over an Associate by operation of law, this certificate may be suitably modified and copies of the relevant law may be enclosed and referred to.* [↑](#footnote-ref-19)
20. *£ In the case of indirect share-holding, the intervening companies in the chain of ownership should also be Associates i.e., the share-holding in each such company should be more than 50% (fifty per cent) in order to establish that the chain of “control” is not broken.* [↑](#footnote-ref-20)
21. *Φ Refer Clause 3.2.6 of the RFP.* [↑](#footnote-ref-21)