

**TENDER DOCUMENT**

**FOR**

**Property at**

**Plot No. 1, Man Singh Road, New Delhi 110011**

**ISSUED BY**

**NEW DELHI MUNICIPAL COUNCIL**

**Tender Document No: NDMC/1-ManSinghRoad/18-19/ET/03**

**Date of Issue: September 01, 2018**

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## DISCLAIMER

*This tender document ("**Tender Document**") has been prepared for the purposes of providing certain information to Bidder(s) (as defined hereinafter) who are desirous of participating in the Bidding Process (as defined hereinafter) being conducted by New Delhi Municipal Council ("**NDMC**") for selection of a Successful Bidder (as defined hereinafter) for the Property (as defined hereinafter) and for no other purposes. In no circumstances shall NDMC, or its employees, officers, directors, advisors, consultants, contractors and/or agents incur any liability arising out of or in respect of the issue of this Tender Document, or the Bidding Process set out herein.*

*This Tender Document is being made available by NDMC to the Bidder(s) on the terms set out in this Tender Document and is confidential. This Tender Document has not been filed, registered or approved in any jurisdiction. Its possession or use in any manner contrary to any Applicable Law (as defined hereinafter) is expressly prohibited. Bidders shall inform themselves of any applicable legal requirements in respect of this Tender Document and shall observe the same.*

*This Tender Document is neither an agreement nor an offer by the NDMC to the prospective Bidder(s) or any other Person and no agreement or transaction shall be deemed to be entered into, either oral or in writing, till the Definitive Documents (as defined hereinafter) are executed.*

*The purpose of this Tender Document is to provide interested parties with information that may be useful to them in the formulation of their Bids (as defined hereinafter) pursuant to this Tender Document. This Tender Document, any clarifications, amendments, additional information or addenda issued pursuant hereto are only to provide selective summaries of available information and do not purport to contain all the information that a recipient may require for the purposes of making a decision for participation in this Bidding Process. This Tender Document is subject to updating, expansion, revision and amendment at the sole discretion of NDMC, without the requirement of prior notices to the Bidders or any other person. Whilst the information in this Tender Document has been prepared in good faith, no reliance shall be placed on any information or statements contained herein, and no representation or warranty, expressed or implied, is or will be made in relation to such information and no liability is or will be accepted by NDMC, its employees, officers, directors, advisors, consultants, contractors and/or its agents in relation to the accuracy, adequacy or completeness of such information or statements made, nor shall it be assumed that such information or statements will remain unchanged. Neither NDMC nor any of its employees, officers, directors, nor any of its agents, representatives, advisors, contractors or consultants undertakes to provide any Bidder with access to any additional information, or, to update the information in this Tender Document or to correct any inaccuracies herein.*

### **Invitation to Bid**

*NDMC hereby invites the Bidders to submit their Bid in relation to the Property for evaluation and selection of the Successful Bidder. NDMC will evaluate the Bids submitted by the Bidders in accordance with the evaluation criteria as provided in this Tender Document. The Bidders may seek clarifications and obtain further information regarding this Tender Document in the manner set out herein.*

*NDMC, its employees, officers, directors, consultants, contractors, agents and advisors make no representation or warranty and shall have no liability or responsibility to any Person, including any Bidder under any Applicable Laws, statutes, rules or regulations or tort, principles of restitution or unjust enrichment or otherwise for any loss, damage, cost or expense which may arise from or be caused or incurred or suffered on account of anything contained in this Tender Document or otherwise, including the accuracy, adequacy, correctness, completeness or reliability of the Tender Document and any assessment, assumption, statement or information contained therein or deemed to form part of this Tender Document or arising in any way from participation in this Bidding Process.*

*NDMC 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 Tender Document.*

*Nothing in this Tender Document shall be construed as legal, financial, regulatory or tax advice. NDMC shall not be liable for any costs, expenses or damages howsoever incurred by Bidders in connection with the preparation of Bid in response to this Tender Document. Each Bidder must conduct its own analysis of the information contained in this Tender Document and is advised to carry out its own investigation into the proposed opportunity, the regulatory regime which applies thereto, and all matters pertinent to the proposed opportunity and to seek its own professional advice on the legal, financial, regulatory and taxation consequences of entering into any agreement or arrangement relating to the proposed opportunity.*

*Neither anything in this Tender Document nor any clarifications, amendments, additional information or addenda issued pursuant hereto is, or shall be relied upon, as a promise or representation as to NDMC's decision in relation to the handing over of the operations and management of the Property or in the selection of the Successful Bidder. NDMC proposes to select the Successful Bidder in a transparent manner in accordance with this Tender Document on the basis of Bids submitted. Bidders shall not, therefore, assume that they will have the opportunity to revise their Bid following submission, except as provided in this Tender Document.*

*The issue of this Tender Document does not imply that NDMC is bound to select a Bidder or to select a Successful Bidder and NDMC reserves the right to reject all or any of the Bidders or Bids, without assigning any reason whatsoever.*

*Each Bidder shall bear all costs associated with or relating to the preparation, and submission of its Bid including but not limited to preparation, copying, finalization, submission, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by NDMC or any other costs incurred in connection with or relating to its Bid including costs and expenses payable by it to its advisors and consultants in respect to preparing and submission of the Bids. Further the Successful Bidder shall be required to bear all costs associated with or relating to the preparation, finalization and submission of all documents required to be executed by it with the NDMC including but not limited to stamp duty and registration charges, if any, payable in this regard and costs and expenses payable by the Successful Bidder to its advisors and consultants in respect to preparing the Bid.*

*This Tender Document is not transferable.*

*The Bidders are expected to read the entire Tender Document including all annexures and carry out their own diligence, surveys and other investigations of the Property before submitting their Bids.*

*The Laws of Republic of India are applicable to this Tender Document. Courts with competent jurisdiction at New Delhi, India shall have exclusive jurisdiction in relation to any disputes arising out of or in relation to this Tender Document.*

## 1. DEFINITIONS & PRINCIPLES OF INTERPRETATION

### 1.1 Definitions

In this Agreement, unless the context otherwise requires, the following words and expressions shall bear the meanings ascribed to them below. Capitalized terms used but not defined shall have the same meaning as ascribed to them under the Licence Deed (as provided in **Annexure I**).

- 1.1.1 "**Acceptable Bank**" means any of the scheduled banks listed in Second Schedule of the Reserve Bank of India Act, 1934, and having a branch at New Delhi, excluding those listed under the headings of Gramin Banks, Urban Co-operative Banks and State Co-operative Banks.
- 1.1.2 "**Applicable Law**" shall mean all applicable statutes, laws, by-laws (including building by-laws), rules, regulations, orders, ordinances, protocols, codes, guidelines, policies, notices, directions, judgments, decrees or other requirements or official directive of any Governmental Authority, statutory authority or other municipal and local authorities or court or other law, rule or regulation approval from the relevant Governmental Authority, government resolution, directive, or other government restriction or any similar form of decision of, or determination by, or any interpretation or adjudication having the force of law in India, whether in effect on the date of issuance of this Tender Document or thereafter.
- 1.1.3 "**Associate**" means, in relation to any entity ("**Primary Entity**"), an entity who controls, or is controlled by, or is under the common control of such Primary Entity. For the purpose of this definition, "control" shall mean, the ownership, directly or indirectly, of more than 50% (fifty per cent) of the shares or other ownership interest of an entity.
- 1.1.4 "**Auction Date**" shall mean the date on which the ascending forward e-auction shall be conducted in accordance with Clause 7.3.
- 1.1.5 "**Authorized Signatory**" shall mean the individual representing a Bidder who has been duly authorised on behalf of such Bidder to execute and submit the Bid on its behalf, in accordance with the terms hereof.
- 1.1.6 "**Bid**" shall collectively mean (i) the Technical Bid including the initial price offer; (ii) the Bid Security; (iii) the Financial Bid; and (iv) Supporting Documents, submitted by a Bidder, in accordance with the terms and conditions of this Tender Document.
- 1.1.7 "**Bidder**" shall mean a company incorporated under the Companies Act, 1956/ 2013, which has registered on the e-auction portal of MSTCL and intends to participate in the Bidding Process.
- 1.1.8 "**Bid Due Date**" shall mean the date as defined under Clause 7.1.2.
- 1.1.9 "**Bidding Process**" shall mean the two-stage process for selection of the Successful Bidder, as more specifically set out in Clause 7 hereof.

- 1.1.10 "**Bid Security**" shall mean the amount of Rs. 25,00,00,000 (Rupees Twenty Five Crore only) to be submitted by each Bidder at the time of submission of the Technical Bid to NDMC pursuant to the terms hereof. It shall be deposited through the electronic payment gateway of MSTCL, details of which are provided in **Annexure X**.
- 1.1.11 "**Bid Validity Period**" shall have the meaning ascribed to it in Clause 9.11.
- 1.1.12 "**Brand**" shall mean, the trademark registered in, (a) India in accordance with the provisions of the Trade Marks Act, 1999, or (b) any jurisdiction other than India in accordance with the applicable law in such jurisdiction, in each case, under which an entity is operating and managing hotel(s)/resort(s).
- 1.1.13 "**Business Day**" shall mean a day other than a Saturday, Sunday and public holidays, on which banks in New Delhi, India and NDMC are open for general business.
- 1.1.14 "**Coercive Practice**" means impairing or harming, or threatening to impair or harm, directly or indirectly, any Person or property to influence any Person's participation or action in the Bidding Process or the issuance of the Letter of Award or the execution of the Definitive Documents.
- 1.1.15 "**Conflict of Interest**" shall have the meaning ascribed to it in Clause 3.1.3.
- 1.1.16 "**Control**" shall have the meaning ascribed to it under the Companies Act, 2013.
- 1.1.17 "**Corrupt Practice**" means the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any Person connected with the Bidding Process. For avoidance of doubt, offering of employment to or employing or engaging in any manner whatsoever, directly or indirectly, any official of NDMC who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the Letter of Award or has dealt with matters concerning the Definitive Documents or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one (1) year from the date such official resigns or retires from or otherwise ceases to be in the service of NDMC, shall be deemed to constitute influencing the actions of a Person connected with the Bidding Process.
- 1.1.18 "**Definitive Documents**" shall mean collectively the (i) Licence Deed; (ii) the Occupation Letter; (iii) Letter of Award; and (iv) such other agreements and documents, to be entered into, in accordance with this Tender Document and/or the Licence Deed.
- 1.1.19 "**Director**" shall have the meaning ascribed to it under the Companies Act, 2013.
- 1.1.20 "**Disclosure Schedule**" shall mean the Schedule attached herewith as **Annexure VII**, wherein NDMC has disclosed all information available with it in relation to the Property.
- 1.1.21 "**Effective Date**" shall mean the date on which the Licensor provides the physical occupation of the Property to the Licensee on an '**As Is Where Is**' basis, pursuant to the execution of the Licence Deed and the Occupation Letter.

- 1.1.22 "**Eligibility Conditions**" shall mean all the eligibility conditions listed in Clause 3.
- 1.1.23 "**Escalations**" shall have such meaning as set out in Clause 7.1.4.
- 1.1.24 "**Escalation Rate**" means (i) the annual rate of inflation (based on final Wholesale Price Index (WPI) for 'All Commodities') for the relevant Financial Year, as and when published by the Government of India (as of the date of this Tender Document, it is published on the website of the Office of the Economic Adviser, Government of India, Ministry of Commerce & Industry, Department of Industrial Policy & Promotion (<http://eaindustry.nic.in/home.asp>)), or (ii) if the annual rate of inflation (based on final Wholesale Price Index (WPI) for 'All Commodities') ceases to be published by the Government of India, the annual rate of inflation for the relevant Financial Year based on any appropriate substitute benchmark for WPI as published or prescribed by the Government of India.
- 1.1.25 "**Financial Bid**" shall mean the Revenue Share which a Qualified Bidder has offered to pay as per Clause 7.1.3.
- 1.1.26 "**Financial Year**" shall have the meaning ascribed to it under the Companies Act, 2013.
- 1.1.27 "**Floor Price**" shall have the meaning as defined in Clause 7.1.2 (vii).
- 1.1.28 "**Fraudulent Practice**" means a misrepresentation or omission or nondisclosure or suppression of facts or information or disclosure of incomplete or incorrect facts or information, in order to influence in any manner, directly or indirectly, the Bidding Process or the issuance of the Letter of Award or the execution of Definitive Documents.
- 1.1.29 "**Gross Revenue**" of the Property for any Financial Year shall mean the total amount of revenue and receipts of every kind (from both cash and credit transactions) derived by the Licencee from the operation of the Property and its facilities, as certified by the statutory auditors of the Licencee, including receipts from room occupancy charges, telephone, telefax and telex charges, laundry, sale of food, beverages, liquor, recreational amenities (outdoor pool, health club, spa, sauna, fitness facility etc.), outdoor catering, receipts from vending machines; parking, commercial or other spaces on account of rent and / or Licence fee from the sub-Licencees of every description and kind, and the recovery in respect of any other service or facility provided by the Licencee to the users / guests of the said Property, which are availed/ realized by the Licencee from an outside party(ies) at a consideration BUT shall exclude and be arrived at after deducting the following:-
- A. all statutory applicable indirect taxes such as luxury tax, sales tax, entertainment tax, expenditure tax, service tax, goods & services tax and the like by whatever name called now or in future, which the Licencee has agreed to pay or is bound to pay;
  - B. revenue on sale of assets of capital nature owned by the Licencee; and
  - C. interest income from investments made.



- 1.1.30 “**Highest Price Offer**” shall mean the highest Financial Bid submitted by a Qualified Bidder on the e-auction portal of MSTCL in accordance with the terms of this Tender Document.
- 1.1.31 “**Hotel Brand Owner**” shall mean the entity which partners with the Bidder in accordance with Clause 3.1.2 and submits a joint undertaking in the format specified in **Annexure XVI** along with the Bidder under the terms of the Tender Document, and it and/or its Associate(s) own Brand(s) under which it and/or its Associate(s) operate and manage hotel(s)/resort(s) in India.
- Explanation:** Hotel Brand Owner may also participate in the Bidding Process as an independent Bidder, either as a “standalone entity” or as a “Bidder participating together with 1 (one) Subsidiary” *provided however*, that such Hotel Brand Owner meets the minimum eligibility criteria specified in the Tender Document for a Bidder bidding either as a “standalone entity” or as a “Bidder participating together with 1 (one) Subsidiary”, as the case may be.
- 1.1.32 ‘**Integrity Pact**’ shall mean the agreement to be executed between the Bidder and NDMC as per the format prescribed in **Annexure VIII**.
- 1.1.33 "**Letter of Award**" shall mean the order to be issued by NDMC to the Successful Bidder, in the format specified in **Annexure II**.
- 1.1.34 "**Licence**" shall mean the licence to refurbish, operate, maintain and manage the Property during the Licence Period by the Successful Bidder granted by the NDMC in accordance with the terms of this Tender Document and the Definitive Documents.
- 1.1.35 "**Licence Deed**" shall mean the leave and licence agreement to be executed between the Successful Bidder and the NDMC (in the form set out in **Annexure I** hereto) and shall be effective on and from the Effective Date.
- 1.1.36 "**Licence Fee**" shall mean the higher of (a) monthly Gross Revenue multiplied by the Highest Price Offer; or (b) Minimum Guarantee Fee, payable by the Licensee to the NDMC on and from the Effective Date, in accordance with the terms of the Definitive Documents.
- 1.1.37 "**Licence Period**" shall mean a period of thirty three (33) years commencing from the Effective Date, for which the Successful Bidder shall have the Licence to refurbish, operate, maintain and manage the Property in accordance with the terms of the Licence Deed, unless otherwise terminated at an earlier date in accordance with the provisions of the Licence Deed. The Licence Period shall be inclusive of the Effective Date as well as the last day of the Licence Period.
- 1.1.38 “**Management Agreement**” shall mean the contract entered into between the Successful Bidder and the Hotel Brand Owner (which submitted the joint undertaking under the Tender Document) providing for, *inter alia*, the following:
- (a) The term of such contract is for at least 10 years from the Effective Date;
  - (b) The operation and management of the Licensed Premises (as defined under the Licence Deed) will be conducted under a Brand owned by the Hotel Brand

Owner or its Associates; and

- (c) The terms of the contract shall be in conformance with the terms and conditions specified in the Tender Document.
- 1.1.39 “**Master Plan**” means the master plan for Delhi as in force from time to time.
- 1.1.40 “**Minimum Guarantee Fee**” shall mean a sum of Rs. 2,96,47,101/- (Rupees Two Crore Ninety Six Lakh Forty Seven Thousand One Hundred and One only) per month plus Escalations as per Clause 7.1.4.
- 1.1.41 “**Minimum Revenue Share**” shall mean 17.25% (seventeen point two five per cent) of the Gross Revenues of the Technically Qualified Bidder.
- 1.1.42 “**MSTCL**” shall mean MSTC Limited acting as the service provider for the Bidding Process, subject to the terms and conditions of the Tender Document.
- 1.1.43 “**NDMC**” shall mean New Delhi Municipal Council, a body corporate established under the New Delhi Municipal Council Act, 1994.
- 1.1.44 “**Net Worth**” shall mean (subscribed and paid up equity + reserves) – (revaluation reserves + miscellaneous expenditure not written off + reserves not available for distribution to equity shareholders + intangibles).
- 1.1.45 “**Occupation Letter**” shall have the meaning ascribed to it in **Schedule 2** of the Licence Deed.
- 1.1.46 “**Performance Security**” shall have the meaning as ascribed to it in Clause 8.2.1.
- 1.1.47 “**Person**” means any natural person, limited or unlimited liability company, corporation (including any non-profit corporation), partnership (whether registered, unregistered, general, limited or unlimited), sole proprietorship, unincorporated association, joint venture, joint stock company, Hindu undivided family, estate, trust, firm, union, association, governmental authority, government or other enterprise, association, organization or trust or entity whether or not required to be incorporated or registered under Applicable Law or any agency or political subdivision thereof or any other entity that may be treated as a person under Applicable Law.
- 1.1.48 “**Promoter**” shall have the meaning ascribed to it under the Companies Act, 2013.
- 1.1.49 “**Property**” shall mean the public premises situated at Plot No. 1, Man Singh Road, New Delhi - 110011, India, having a plot area of 3.78 acres.
- 1.1.50 “**Qualified Bidder**” shall have the meaning as defined in Clause 7.1.2 (viii).
- 1.1.51 “**Restrictive Practice**” means forming a cartel or a group or association or arriving at any understanding or arrangement, whether or not in writing, with the objective of restricting or manipulating or compromising, whether directly or indirectly, in the conduct of a full, fair and transparent competition in the Bidding Process.
- 1.1.52 “**Revenue Share**” shall mean such percentage of Gross Revenue which a Qualified Bidder has offered to pay to NDMC, if selected as the Successful Bidder, subject to other terms of this Tender Document and the Licence Deed including Escalations.

- 1.1.53 "**Rs.**" or "**INR**" or "**Rupee**" means Indian Rupee, being the lawful currency of the Republic of India.
- 1.1.54 "**Subsidiary**" shall mean a company in which the Bidder holds more than 50% (fifty percent) of the total share capital or voting rights.
- 1.1.55 "**Successful Bidder**" shall have the meaning set forth in Clause 7.1.3(iv) hereof.
- 1.1.56 "**Supporting Documents**" shall mean all such documents, deeds, certificates, letters, undertakings and any other submission as are required to be submitted by a Bidder to NDMC as part of its Bid in accordance with the terms of this Tender Document.
- 1.1.57 "**Technical Bid**" shall have the meaning as defined in Clause 7.1.2.
- 1.1.58 "**Technically Qualified Bidder**" shall have the meaning as defined in Clause 7.1.2 (vi).
- 1.1.59 "**Tender Document**" shall mean this tender document including its Annexures, exhibits, attachments, any addenda or corrigendum to this Tender Document and any other document issued pursuant hereto including all written responses, amendments and clarifications issued by NDMC, from time to time.
- 1.1.60 "**Transaction Expenses**" shall mean have the meaning as ascribed to it under Clause 8.1.1;
- 1.1.61 "**Turnover**" shall mean the turnover from hotels and resorts as per the annual audited financial statements.
- 1.1.62 "**Undesirable Practice**" means:
- A. establishing any contact by any means whatsoever, directly or indirectly, with or without the use of any Coercive Practice, with any Person or Persons connected with or employed or engaged by NDMC, with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process, the selection or non-selection of a Bidder, the issuance of the Letter of Award or the execution of the Definitive Documents;
  - B. having a Conflict of Interest; or
  - C. violation of any Applicable Law.
- 1.1.63 "**Upfront Fee**" shall mean a total non-refundable amount of Rs. 53,36,47,818 (Rupees Fifty Three Crore Thirty Six Lakh Forty Seven Thousand Eight Hundred and Eighteen Only), which the Successful Bidder shall pay to NDMC.
- 1.2 **Principles of interpretation**
- 1.2.1 Throughout this Tender Document, unless indicated otherwise by the context, the singular also includes plural.
- 1.2.2 Any reference in this Tender Document to any statute or statutory provision shall be

construed as including a reference to that statute or statutory provision, and to all statutory instruments, orders and regulations for the time being made pursuant to it or deriving validity from it, as may be, from time to time, amended, modified, extended or re-enacted, whether before or after the date of this Tender Document.

- 1.2.3 The words "hereof," "herein", "hereunder" and words of similar import when used in this Tender Document shall refer to this Tender Document as a whole and not to any particular provision of this Tender Document. The words "include" and "including" shall be deemed to be followed by "without limitation" or "but not limited to" whether or not they are followed by such phrases or words of like import.
- 1.2.4 The headings in this Tender Document are intended for convenience only and shall not, in any way affect the meaning or construction of any provision therein.
- 1.2.5 References to Sections, Clauses and sub-Clauses are, unless the context otherwise requires, references to Section, Clauses and sub-Clauses of this Tender Document.
- 1.2.6 References to days, months and years are references to calendar days, calendar months and calendar years respectively.
- 1.2.7 References in this Tender Document to any consent or approval or permission or satisfaction or confirmation or certificate or agreement by any Person shall in each case mean in written form and signed, whether digitally or physically, by the Authorized Signatory of such person.

## **2. BRIEF OVERVIEW**

- 2.1 NDMC propose to auction the licence rights of the immovable property being the plot of land admeasuring 3.78 acres situated at Plot No. 1, Man Singh Road, New Delhi - 110011, including the building constructed thereon, and all other facilities and appurtenances constructed or standing thereon, as more particularly described in **Annexure IX**.
- 2.2 NDMC is inviting bids/ proposals from eligible bidders with the objective of selecting a Successful Bidder for award of the Licence to operate and manage the Property.
- 2.3 NDMC has adopted a two-stage competitive Bidding Process (to be conducted in the manner more specifically set out in Clause 7), for selection of the Successful Bidder for award of the operation and management of the Property in accordance with the terms of this Tender Document and the Licence Deed.
- 2.4 The first stage of the Bidding Process involves qualification of Bidders who meet the Eligibility Conditions (as set out in Clause 3) and submit their Technical Bids and initial price offers in accordance with the provisions of this Tender Document. The Technical Bids will be submitted both in physical format to NDMC and on the e-auction portal of MSTCL. The initial price offer will only be submitted electronically on the e-auction portal of MSTCL. In case of any discrepancy between Technical Bids submitted online and in physical format, Technical Bids submitted in physical format shall prevail.

- 2.5 In the first stage, Bidders would be required to submit, inter alia, their Technical Bids, Tender Fee, initial price offers and the Bid Security by the Bid Due Date, in the manner set out in this Tender Document.
- 2.6 For the purposes of evaluating the Technically Qualified Bidders, NDMC may, inter alia, ask for any details, clarifications or any other information, to be submitted in writing, based on information submitted by the Bidders for the purposes of evaluating their Technical Bids or otherwise.
- 2.7 Only those Bidders who are found to be eligible in accordance with the prescribed eligibility conditions as per Clause 3 of this Tender Document and whose initial price offer is greater than the Minimum Revenue Share and whose Technical Bids meet the requirements under this Tender Document shall be considered as the Technically Qualified Bidders.
- 2.8 The highest initial price offer amongst the Technically Qualified Bidders shall be the Floor Price for the second round of online electronic auction. The Technically Qualified Bidders shall be ranked on the basis of the descending initial price offers submitted by them. On the basis of such ranking the Technically Qualified Bidders, holding first fifty per cent of the ranks (with any fraction rounded off to higher integer) or the top five Technically Qualified Bidders, whichever is higher, shall be considered to be qualified for participating in the second round of online electronic auction. Such bidders will be referred to as the Qualified Bidders. Provided that, if the number of Technically Qualified Bidders is between two (2) and five (5), then all the Technically Qualified Bidders, shall be considered to be qualified for participating in the second round of online electronic auction.
- 2.9 Only the Qualified Bidders shall be eligible for participation in the second stage of the Bidding Process which shall require submission of Financial Bids on the e-auction portal of MSTCL. No physical bids shall be submitted or considered in the stage two of the Bidding Process.
- 2.10 Subject to the terms set out in this Tender Document, a Qualified Bidder submitting the highest Financial Bid among the Qualified Bidders on the e-auction portal of MSTCL shall be declared as the Successful Bidder.
- 2.11 The Licence Deed shall be executed between NDMC and the Successful Bidder upon fulfilment of the conditions as stipulated herein.

### **3. ELIGIBILITY CONDITIONS**

- 3.1 For determining the eligibility of Bidders the following shall apply:
- 3.1.1 The Bidder shall be a company incorporated or existing under the Companies Act, 1956/ 2013 and in existence for at least three years prior to the date of publication of the Notice Inviting Tender;
- 3.1.2 The Bidder shall be required to meet the minimum technical and financial eligibility criteria as follows:

**Minimum Technical Eligibility Criteria:** Minimum number of operational rooms in the immediately preceding continuous period of 5 (five) years calculated from the date of submission of the Technical Bid as mentioned below

<b>Bidder Type</b>	<b>Bidder participating as a standalone entity</b>	<b>Bidder participating together with 1 (one) Subsidiary</b>	<b>Bidder participating by partnering with 1 (one) Hotel Brand Owner</b>
<b>Total Minimum operational Room Requirement</b>	<b>500 (five hundred)</b>	<b>500 (five hundred)</b>	<b>700 (seven hundred)</b>
Minimum requirement for operational rooms and hotel/resort rating to be met by the Bidder itself	500 (five hundred) operational rooms across a maximum of 5 (five) hotels/resorts located in India, each having:  i. a minimum of 5 star rating; and ii. at least 100 (one hundred) operational rooms	300 (three) hundred) operational rooms across a maximum of 3 (three) hotels/resorts located in India, each having:  i. a minimum of 5 star rating; and ii. at least 100 (one hundred) operational rooms	200 (two hundred) operational rooms across a maximum of 2 (two) hotels/resorts located in India, each having:  i. a minimum of 5 star rating; and ii. at least 100 (one hundred) operational rooms
Minimum requirement for operational rooms and hotel/resort rating to be met by the Subsidiary whose credentials will be used by the Bidder for meeting the eligibility criteria	Not applicable	Balance number of operational rooms required (i.e. 500 <i>minus</i> number of rooms of the Bidder submitted above), across a maximum of 2 (two) hotels/resorts located in India, each having:  i. a minimum of 5 star rating; and  ii at least 100 (one hundred) operational rooms	Not applicable

**Minimum Technical Eligibility Criteria:** Minimum number of operational rooms in the immediately preceding continuous period of 5 (five) years calculated from the date of submission of the Technical Bid as mentioned below

<b>Bidder Type</b>	<b>Bidder participating as a standalone entity</b>	<b>Bidder participating together with 1 (one) Subsidiary</b>	<b>Bidder participating by partnering with 1 (one) Hotel Brand Owner</b>
Minimum requirement for operational rooms and hotel/resort rating to be met by the Hotel Brand Owner partnering with the Bidder	Not applicable	Not applicable	500 (five hundred) operational rooms across a maximum of 5 (five) hotels/resorts located in India, each having: <ul style="list-style-type: none"> <li>i. a minimum of 5 star rating; and</li> <li>ii. at least 100 (one hundred) operational rooms</li> </ul>

**Minimum Financial Eligibility Criteria 1:** Average of the Turnover over the last 3 (three) Financial Years (including Financial Year 2017-18) from hotel or resort operations as per the audited accounts for such Financial Years should at least be **Rs. 350,00,00,000/- (Rupees Three Hundred and Fifty Crore only)** and as mentioned below:

<b>Bidder Type</b>	<b>Bidder participating as a standalone entity</b>	<b>Bidder participating together with 1 (one) Subsidiary</b>	<b>Bidder participating by partnering with 1 (one) Hotel Brand Owner</b>
<b>Total Minimum Average Turnover Requirement</b>	<b>Rs. 350,00,00,000/- (Rupees Three Hundred and Fifty Crore only)</b>	<b>Rs. 350,00,00,000/- (Rupees Three Hundred and Fifty Crore only)</b>	<b>Rs. 350,00,00,000/- (Rupees Three Hundred and Fifty Crore only)</b>
Minimum average Turnover requirement to be met by the Bidder itself	<b>Rs. 350,00,00,000/- (Rupees Three Hundred and Fifty Crore only)</b>	Rs. 175,00,00,000/- (Rupees One Hundred and Seventy Five Crore only)	<b>Rs. 350,00,00,000/- (Rupees Three Hundred and Fifty Crore only)</b>

**Minimum Financial Eligibility Criteria 1:** Average of the Turnover over the last 3 (three) Financial Years (including Financial Year 2017-18) from hotel or resort operations as per the audited accounts for such Financial Years should at least be **Rs. 350,00,00,000/- (Rupees Three Hundred and Fifty Crore only)** and as mentioned below:

<b>Bidder Type</b>	<b>Bidder participating as a standalone entity</b>	<b>Bidder participating together with 1 (one) Subsidiary</b>	<b>Bidder participating by partnering with 1 (one) Hotel Brand Owner</b>
Minimum average Turnover requirement to be met by the Subsidiary whose credentials will be used by the Bidder for meeting the eligibility criteria	Not applicable	Balance average Turnover required  [Please refer to Clause 3.1.2 (B) (vii) for the calculation methodology]	Not applicable
Minimum average Turnover requirement to be met by the Hotel Brand Owner partnering with the Bidder	Not applicable	Not applicable	Turnover of the Hotel Brand Owner will not be considered.



**Minimum Financial Eligibility Criteria 2: Minimum Net Worth of Rs. 300,00,00,000 (Rupees Three Hundred Crore only) as per the audited accounts for Financial Year 2017-18 should be as mentioned below:**

<b>Bidder Type</b>	<b>Bidder participating as a standalone entity</b>	<b>Bidder participating together with 1 (one) Subsidiary</b>	<b>Bidder participating by partnering with 1 (one) Hotel Brand Owner</b>
<b>Total Minimum Net Worth Requirement</b>	<b>Rs. 300,00,00,000 (Rupees Three Hundred Crore only)</b>	<b>Rs. 300,00,00,000 (Rupees Three Hundred Crore only)</b>	<b>Rs. 300,00,00,000 (Rupees Three Hundred Crore only)</b>
Minimum Net Worth requirement to be met by the Bidder itself	Rs. 300,00,00,000 (Rupees Three Hundred Crore only)	Rs. 150,00,00,000 (Rupees One Hundred and Fifty Crore only)	Rs. 300,00,00,000 (Rupees Three Hundred Crore only)
Minimum requirement to be met by the Subsidiary whose credentials will be used by the Bidder for meeting the eligibility criteria	Not applicable	Balance Net Worth required  [Please refer to Clause 3.1.2 (B) (vii) for the calculation methodology]	Not applicable
Minimum requirement to be met by the Hotel Brand Owner partnering with the Bidder	Not applicable	Not applicable	Net Worth of the Hotel Brand Owner will not be considered.

**Note:** A Hotel Brand Owner may also participate in the Bidding Process as an independent Bidder, either as a “standalone entity” or as a “Bidder participating together with 1 (one) Subsidiary” *provided however*, that such Hotel Brand Owner meets the minimum eligibility criteria specified in the Tender Document for a Bidder bidding either as a “standalone entity” or as a “Bidder participating together with 1 (one) Subsidiary”, as the case may be.

*Provided that*, if the audited financial statements for Financial Year 2017-18 are not available as on the date of submission of the Technical Bid, the Bidder and/or its Subsidiary (as applicable) and the statutory auditor of the Bidder and/or Bidder’s Subsidiary (as

applicable) shall, certify that audited financial statements for Financial Year 2017-18 are not available as on the date of submission of the Technical Bid. In such an event, the Bidder shall submit (in accordance with the Tender Document) the audited financial statements for the Financial Years 2014-15, 2015-16 and 2016-17 in respect of the Bidder itself and/or its Subsidiary (as applicable). As a result of the aforesaid, the average Turnover shall be calculated by considering the Turnover as per the standalone annual audited financial statements for the Financial Years 2014-15, 2015-16 and 2016-17 while the Net Worth as per the standalone annual audited financial statements for the Financial Year 2016-17 shall be considered, in each case, in accordance with the Tender Document.

The technical and financial credentials of the Bidders shall be evaluated as follows:

**A. Bidder participating as a standalone entity**

- i. For the purposes of calculating the technical eligibility criteria, only those rooms will be considered for which the Bidder itself:
  - a. operates under its own Brand(s) the hotels/ resorts and owns (either freehold or under a lease or under a licence) such hotels/ resorts; or
  - b. operates under its own Brand(s) the hotels/ resorts of a third party under any agreement;
- ii. For the purposes of calculating the financial eligibility criteria, the Bidder shall furnish, (I) its Turnover from hotels/ resorts, and (II) its Net Worth, as specified in its audited standalone financial statements. For the avoidance of doubt, for the purposes of meeting the financial eligibility criteria under this Tender Document, the Bidder shall not be permitted to use the consolidated Turnover and Net Worth of the Bidder and its Subsidiaries.

**B. Bidder participating together with 1 (one) Subsidiary**

- i. The Bidder shall be permitted to use the credentials of only 1 (one) Subsidiary for the purpose of meeting the eligibility criteria in accordance with the provisions of the Tender Document.
- ii. If the Bidder is using the credentials of one of its Subsidiary for the purpose of this Tender Document, credentials of a Hotel Brand Owner cannot be used by the Bidder to meet the eligibility criteria.
- iii. The Bidder shall be permitted to use the relevant credentials of such Subsidiary in accordance with the terms of this Tender

Document, only if such entity was a Subsidiary of the Bidder prior to the date of publication of the NIT.

- iv. For the purposes of calculating the technical eligibility criteria, only those rooms will be considered for which the Bidder or Subsidiary itself:
  - a. operates under their own Brand(s) the hotels/ resorts and owns (either freehold or under a lease or under a licence) such hotels/ resorts; or
  - b. operates under their own Brand(s) the hotels/ resorts of a third party under any agreement.
- v. If the Bidder has used the credentials of a Subsidiary to meet the room requirements as specified under the table above, only then the Turnover and Net Worth of the same Subsidiary can be used to fulfil the Turnover and Net Worth criteria in accordance with the terms of this Tender Document.
- vi. For the purposes of calculating the financial eligibility criteria, the Bidder shall be permitted to use:
  - a. its Turnover from hotels/ resorts and its Net Worth, in each case, as specified in its audited standalone financial statements; and
  - b. its Subsidiary's Turnover from hotels/ resorts and its Subsidiary's Net Worth, as specified in the audited standalone financial statements of such Subsidiary.
- vii. For the purpose of meeting the financial eligibility criteria, the combined Turnover and combined Net Worth shall be calculated in the following manner:
  - a. Combined Turnover for the relevant Financial Year:  
  
[Bidder's Turnover from hotels/resorts, as specified in its audited standalone financial statements for the relevant Financial Year]  
  
*Plus*  
  
[Subsidiary's Turnover from hotels/resorts, as specified in the Subsidiary's audited standalone financial

statements for the relevant Financial Year ***Multiplied by*** the Bidder's percentage shareholding (on a fully diluted basis) in the Subsidiary as of March 31 of the relevant Financial Year]

**Note:** The combined Turnover for each of the Financial Years 2014-15, 2015-16 and 2016-17 or 2015-16, 2016-17 and 2017-18 (if the annual audited financial statements for Financial Year 2017-18 are available) shall be calculated in accordance with the aforesaid formula separately. Subsequently, the simple average of such combined Turnover for each of the Financial Years 2014-15, 2015-16 and 2016-17 or 2015-16, 2016-17 and 2017-18 (if the annual audited financial statements for Financial Year 2017-18 are available) (as calculated in accordance with the aforementioned formula) shall be considered for the purpose of meeting the eligibility criteria under the Tender Document.

b. Combined Net Worth:

[Bidder's Net Worth as specified in its audited standalone financial statements for the Financial Year 2016-17 or 2017-18 (if the annual audited financial statements for Financial Year 2017-18 are available)]

***Plus***

[Subsidiary's Net Worth, as specified in its audited standalone financial statements for the Financial Year 2016-17 or 2017-18 (if the annual audited financial statements for Financial Year 2017-18 are available) ***Multiplied by*** the Bidder's percentage shareholding (on a fully diluted basis) in the Subsidiary as of March 31, 2017 or March 31, 2018 (if the annual audited financial statements for Financial Year 2017-18 are available)]

***Minus***

Bidder's investment in the Subsidiary (at cost) as specified in its audited standalone financial statements for the Financial Year 2016-17 or 2017-18 (if the annual

audited financial statements for Financial Year 2017-18 are available).

- viii. The technical experience, Turnover and Net Worth of the aforesaid Subsidiary shall be considered only if:
- a. The statutory auditor of the Bidder shall have certified in the format provided in **Annexure XII** along with the relevant Supporting Documents that the entity is a Subsidiary of the Bidder and that the entity was a Subsidiary of the Bidder prior to the date of publication of the Notice Inviting Tender; and
  - b. The Subsidiary shall have provided:
    - (1) necessary corporate authorizations, certification and evidence of its experience, standalone Turnover and standalone Net Worth as per the format provided in **Annexure XIII**;
    - (2) a certificate from its statutory auditor confirming that it is a Subsidiary of the Bidder and certifying its standalone Turnover and standalone Net Worth as per the format provided in **Annexure XIV**; and
    - (3) an undertaking to remain a Subsidiary of the Bidder for a period of at least seven (7) years from the Effective Date as per the format provided in **Annexure XIII**. In case, such a Subsidiary ceases to remain a Subsidiary of the Successful Bidder prior to the seventh (7th) anniversary of the Effective Date, the same shall be treated as a Licence Event of Default (as defined in the Licence Deed).

C. **Bidder participating by partnering with 1 (one) Hotel Brand Owner**

- i. The Bidder shall, for the purpose of meeting the eligibility criteria in accordance with the provisions of the Tender Document, be permitted to partner with only 1 (one) Hotel Brand Owner.

- ii. If the Bidder has partnered with a Hotel Brand Owner for the purpose of this Tender Document, credentials of a Subsidiary cannot be used by the Bidder to meet the eligibility criteria.
- iii. For the purposes of calculating the technical eligibility criteria, only those rooms will be considered for which:
  - a. The Bidder itself operates under any Brand(s) its own (either freehold or under a lease or under a licence) hotels/ resorts; and
  - b. The Hotel Brand Owner and/or its Associate(s) operate the hotels/ resorts under their own Brand(s).
- iv. The operational rooms used by the Bidder and the Hotel Brand Owner to meet the eligibility criteria shall not be situated in the same hotel/resort.
- v. The relevant credentials of the Hotel Brand Owner shall be considered in accordance with this Tender Document only if:
  - a. the Bidder shall have submitted a joint undertaking (as part of its Bid) duly executed by it and the Hotel Brand Owner in the format prescribed in **Annexure XVI**; and
  - b. the Bidder shall have submitted a duly stamped and notarized power of attorney in the format specified in **Annexure XVII** executed by the Hotel Brand Owner authorizing its representative for executing the joint undertaking for and on its behalf.
- vi. For the purposes of calculating the financial eligibility criteria, the Bidder shall furnish, (I) its Turnover from hotels/ resorts, and (II) its Net Worth, as specified in its audited standalone financial statements.
- vii. The average Turnover and Net Worth of the Hotel Brand Owner shall not be permitted to be used to meet the financial eligibility criteria as per the Tender Document.

The terms “operate”, “operates”, “operated” and “operational” as used in this Tender Document in the context of hotels/resorts, shall mean day-to-day administration, functioning, management, upkeep and repair as is necessary for proper operation of the hotel/resort in accordance with good industry practice.

3.1.3 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 forthwith disqualified. A Bidder shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:

- A. the Bidder or its shareholders and any other Bidder or its shareholder have common shareholders or beneficial owners, with the shareholding or ownership interest being equal to or in excess of 20% (twenty per cent). Provided that, this disqualification shall not apply to any shareholding or ownership by a bank, insurance company, pension fund, mutual fund registered with SEBI or a public financial institution referred to in section 2(72) of the Companies Act, 2013; or
- B. such Bidder has the same legal representative for purposes of a Bid as any other Bidder; or
- C. such Bidder or any Associate thereof, has a relationship with another Bidder or any Associate thereof, directly or indirectly or through a common third party/parties, that puts either or both of them in a position to have access to each other's information, or to influence the Bid of either or each other; or
- D. any Director or other key managerial personnel (as defined in the Companies Act, 2013) of a Bidder is or have been in the past three (3) years, an officer, member, employee (permanent or on contract) of NDMC;
- E. such Bidder partners with a Hotel Brand Owner and that "Hotel Brand Owner or its Associate" partners with another Bidder; or
- F. such Bidder partners with a Hotel Brand Owner who itself, or whose Associate, has separately submitted a Bid; or
- G. such Bidder or its Associate acts as:
  - 1) a partnering Hotel Brand Owner with another Bidder, or
  - 2) an Associate of a Hotel Brand Owner which has partnered with another Bidder.

For the avoidance of doubt, in the event of a Conflict of Interest that affects the Bidding Process between two (2) or more Bidders, all such Bidders shall be forthwith disqualified.

- 3.1.4 None of the Bidders, its Directors, Promoters or Associate shall figure in any list of willful defaulters maintained by the Reserve Bank of India, or have been convicted by a Court of law for any offence committed for any financial crimes or money-laundering activities. Further, the Bidders, its Directors, Promoters or Associates must not have been blacklisted, debarred or suspended by any governmental authority in India, in relation to any public procurement works/contracts.

- 3.1.5 The Bidder or its Promoters' should not have an account, which has been classified as a non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 as of the date of submission of the Technical Bid.
- 3.1.6 No change in Control of the Successful Bidder shall be allowed at any time during the Licence Period without prior written approval of NDMC. The Successful Bidder shall not allow or register any change in its shareholding which results in a change of Control during the Licence Period without prior written approval of the NDMC.

#### **4. TENDER FEE, PRE BID CONFERENCE AND SITE VISITS**

##### **4.1 Tender Fee**

- 4.1.1 The complete Tender Document shall be freely available to the public for download on the e-auction portal of MSTCL at:  
<http://www.mstcecommerce.com/auctionhome/ndmc/index.jsp>  
and on the website of NDMC at:  
<https://www.ndmc.gov.in>
- 4.1.2 The Tender Document will be freely available for downloading. However, as a part of the Technical Bid the interested Bidders will have to pay a non-refundable amount of Rs. 5,00,000 (Rupees Five Lakh only) plus applicable taxes (“**Tender Fee**”) through MSTCL’s electronic payment gateway, details of which are provided in **Annexure X**.

##### **4.2 Pre-Bid Conference**

- 4.2.1 Pre-bid conference(s) shall be convened at 10:30 AM on the date as mentioned in Clause 7.3 at Council Room, 3<sup>rd</sup> Floor, Palika Kendra, Parliament Street, New Delhi – 110 001.
- 4.2.2 A maximum of three (3) representatives of each bidder shall be allowed to participate in a pre-bid conference, on production of duly issued authority letter from the bidder and Government issued identity document. During the course of pre-bid conference(s), the bidders will be free to seek clarifications and make suggestions for consideration of NDMC. However, NDMC is not bound to incorporate or act upon any suggestions made to it and shall be authorized to reject the same, without assigning any reasons for the same.
- 4.2.3 NDMC 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.

##### **4.3 Site Visits**

- 4.3.1 Site visits to the Property shall be scheduled from Monday, September 03, 2018 to Thursday, September 06, 2018 in between 10:30 hours (Indian Standard Time) and 15:00 hours (Indian Standard Time) (both days inclusive).



- 4.3.2 The Bidders who have registered on the e-auction portal of MSTCL shall be eligible to visit the Property.
- 4.3.3 The site visit to the Property shall be coordinated by NDMC. The Bidders shall submit their request for a site visit to NDMC on the following email addresses: [director.estate@ndmc.gov.in](mailto:director.estate@ndmc.gov.in) and [secretary@ndmc.gov.in](mailto:secretary@ndmc.gov.in) and [ndmc.auction@sbicaps.com](mailto:ndmc.auction@sbicaps.com)
- The email should clearly bear the following subject line: “*Site Visit for Property at Plot No. 1, Man Singh Road, New Delhi*”
- 4.3.4 Once NDMC confirms the dates of such site visit, the Bidders may undertake the site visit to the Property at their own expense, cost, liability and risk to ascertain for themselves the site conditions, area, location, facilities, and any other matters considered relevant by them.
- 4.3.5 This Tender Document does not however give an unconditional or unrestricted right to access the Property to the Bidders.
- 4.3.6 In the event a Bidder undertakes a site visit, then such Bidder shall be liable towards any loss or damage caused to the Property, on account of any act or omission of such Bidder or its employees, authorised representatives, agents, advisors etc.

## 5. TENDER DOCUMENT QUERIES AND CLARIFICATIONS

- 5.1.1 Queries or requests for additional information concerning this Tender Document may be sent by e-mail to NDMC at [director.estate@ndmc.gov.in](mailto:director.estate@ndmc.gov.in) and [secretary@ndmc.gov.in](mailto:secretary@ndmc.gov.in)

The email should clearly bear the following subject line: "*Queries/Request for Additional Information: Property at Plot No. 1, Man Singh Road, New Delhi*".

- 5.1.2 Each query should contain complete details of facts, information and applicable clause references to the Tender Documents relevant to the query and also the particulars of the Person posing the query.
- 5.1.3 The queries should be emailed in MS Word format only on or before the last date as specified at the time table at Clause 7.3 of this Tender Document for receiving queries.
- 5.1.4 NDMC shall endeavour to respond to queries within a reasonable period of time. However, NDMC reserves the right not to respond to any question or provide any clarification, in its sole discretion, and nothing in this Clause 5.1.4 shall be taken or read as compelling or requiring NDMC to respond to any question or to provide any clarification. NDMC may publish the queries and its responses thereto on the e-auction portal of MSTCL.
- 5.1.5 NDMC may also on its own motion, if deemed necessary, issue interpretations and clarifications to all Bidders. All clarifications and interpretations issued by NDMC shall be deemed to be part of the Tender Document. Provided however that, any non-written clarifications and information provided by NDMC, its

employees or representatives in any manner whatsoever shall not in any way or manner be binding on NDMC.

5.1.6 Bids shall be deemed to be under consideration immediately after the Technical Bids are opened and until such time official intimation of selection of Qualified Bidders/ rejection to the Bidders. While the Bids are under consideration, Bidders and/ or their representatives or other interested parties are advised to refrain, save and except as required under the Tender Document, from contacting by any means, NDMC and/ or their employees/ representatives on matters related to the Bids under consideration.

5.1.7 Save and except as provided in this Tender Document, NDMC shall not entertain any correspondence with any Bidder in relation to acceptance or rejection of any Bid.

5.1.8 In case of any technical clarification regarding access to the e-auction portal or conduct of the Bidding Process and demonstration of mock e-auction the Bidders may contact MSTCL directly at:

Sl. No.	Enquiry Type	Name of Officer	Phone Number	Email
1.	Technical	Chirag Sindhu	9830336290	<a href="mailto:chiragsindhu@mstcindia.co.in">chiragsindhu@mstcindia.co.in</a>
2.	Technical	S D Sharma	7878055855	<a href="mailto:sdsharma@mstcindia.co.in">sdsharma@mstcindia.co.in</a>
3.	Technical and Registration	Suneel Sharma	011-23217850	<a href="mailto:ssharma@mstcindia.co.in">ssharma@mstcindia.co.in</a>

## 6. MINIMUM REVENUE SHARE AND MINIMUM GUARANTEE FEES

The first Financial Bid of each Qualified Bidder must be more than the Floor Price by at least 0.10% (zero point one per cent). The subsequent Financial Bids shall be increased in multiples of 0.10% (zero point one per cent) above the immediately preceding Financial Bid. Any Financial Bid that does not satisfy the above criteria shall not be accepted by the e-auction portal.

Further, notwithstanding anything to the contrary contained herein the License Fee shall be the higher of (a) the monthly Gross Revenue multiplied by the Highest Price Offer or (b) Minimum Guarantee Fee, payable by the Licencsee to the NDMC on and from the Effective Date.

## 7. BIDDING PROCESS

### 7.1 Description of the Bidding Process

7.1.1 The ascending forward e-auction of the Property shall be conducted through a two stage process comprising of the following sequence:

- (i) **Technical Bid and Initial Price Offer** - in which the Bidders would be required to submit their Technical Bids and provide details regarding compliance with the Eligibility Conditions, as set out in Clause 3 and submit their initial price offers, which shall be a percentage of Gross Revenue and must be greater than the Minimum Revenue Share as specified in Clause 1.1.41; and
- (ii) **Financial Bid** – in which the Qualified Bidders alone shall be eligible to participate in the ascending forward e-auction and submit their Financial Bids on the e-auction portal of MSTCL.

#### 7.1.2 **Technical Bid and Initial Price Offers**

- (i) Each Bidder who intends to participate in the auction process will be required to successfully complete the following on or prior to 15:00 hours (Indian Standard Time) on Thursday, September 20, 2018 (Indian Standard Time), the last date for submission of Technical Bid and initial price offer (“**Bid Due Date**”):
  - A. Remit the Bid Security of Rs. 25,00,00,000 (Rupees Twenty Five Crore Only) and pay the Tender Fee of Rs. 5,00,000 /- (Rupees Five Lakh only) plus applicable taxes through MSTCL’s electronic payment gateway, details of which are provided in **Annexure X**;
  - B. Submit the following documents, in physical form to NDMC at the address mentioned under this Clause and upload the scanned copies of such documents on the e-auction portal of MSTCL:
    - (1) Signed copy of the bid letter as per the format set out in **Annexure III**;
    - (2) A Power of Attorney in the format set out in **Annexure IV** along with a certified true copy of the relevant authorizations in support thereof such as letter of authority, resolution of the board of Directors, resolution of the shareholders etc. In case a board resolution duly authorizes the authorized signatory, a Power of Attorney shall not be required to be submitted and a copy of such board resolution shall suffice;
    - (3) An Affidavit from the Authorized Signatory as per the format set out in **Annexure VI**; and
    - (4) Signed copy of the Integrity Pact as per the format set out in **Annexure VIII**;
    - (5) In case the Bidder is participating based on its own credentials only, then;
      - a. Certificate of Incorporation and Commencement of Business of the Bidder; and

- b. A certificate from the statutory auditor of the Bidder (as per the format provided as **Annexure XI**) certifying that the Bidder meets the eligibility conditions set out in Clause 3.1.2.
- (6) In case where the Bidder in addition to its own credentials is also using the credentials of a Subsidiary in addition to meet the eligibility criteria, then:
- a. Certificate of Incorporation and Commencement of Business of the Bidder and its Subsidiary; and
  - b. A certificate from the statutory auditor of the Bidder (as per the format provided as **Annexure XII**) and the statutory auditor of the Bidder's Subsidiary (as per the format provided as **Annexure XIV**) certifying that the Bidder and the Bidder and its Subsidiary, as the case may be meets the eligibility conditions set out in Clause 3.1.2; and
  - c. A certificate from that statutory auditor (as per the format provided as **Annexure XII**) of the Bidder stating that the entity whose experience, Turnover and Net Worth is being used by the Bidder for meeting the Eligibility Conditions is a Subsidiary of the Bidder and that the entity was a Subsidiary of the Bidder prior to the date of publication of the Notice Inviting Tender; and
  - d. The Subsidiary of the Bidder provides necessary undertaking confirming (as per the format provided as **Annexure XIII**) that it is a Subsidiary of the Bidder and provides an undertaking to remain a Subsidiary of the Bidder for a period of at least seven (7) years from the Effective Date.
- (7) In case where the Bidder, in addition to its own credentials is also using the credentials of a Hotel Brand Owner to meet the eligibility criteria, then:
- a. The certificate of incorporation and commencement of business of the Bidder;
  - b. A certificate from the statutory auditors of the Bidder in accordance with the format provided in **Annexure XVIII**, certifying, *inter alia*, that the Bidder satisfies the eligibility conditions set out in Clause 3.1.2;
  - c. the duly executed joint undertaking with the Hotel Brand Owner in the format provided in **Annexure XVI**; and
  - d. duly stamped and notarized power of attorney in the format provided in **Annexure XVII** executed by the

Hotel Brand Owner authorizing its representative for executing the joint undertaking for and on its behalf.

The Technical Bid shall be submitted electronically as provided in **Annexure X** (*Technical details regarding e-auction*). The duly executed original physical documents must be sent in a sealed envelope with “*Technical Bid for Property at Plot No. 1, Man Singh Road, New Delhi*” clearly written on it to the following address so that they are received on or prior to 15:00 hours (Indian Standard Time) on the Bid Due Date, failing which the Technical Bid shall be deemed to be not received. In case of a conflict between documents submitted electronically and documents submitted physically, the validity of the documents submitted physically shall prevail. The physical bids are to be submitted at:

<p><b>Office of the Director (Estate – I)</b> <b>New Delhi Municipal Council</b> <b>3<sup>rd</sup> Floor, Palika Kendra</b> <b>Parliament Street, New Delhi – 110001</b></p>
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**It is clarified that only the Technical Bid should be submitted on the e-auction portal of MSTCL and physically at the address mentioned above.**

**The initial price offer should only be submitted on the e-auction portal of MSTCL and the Bidder should not submit the initial price offer physically. Physical submission of the initial price offers shall lead to the rejection of the Technical Bids and disqualification of the Bidder.**

- (ii) Along with the Technical Bid as outlined in Clause 7.1.2 (i) each Bidder who intends to participate in the auction process will be required to on or prior to the Bid Due Date submit an initial price offer which shall be a percentage of Gross Revenue and must be greater than the Minimum Revenue Share as specified in Clause 1.1.41.
- (iii) **Test of Responsiveness:** Prior to evaluation of the Technical Bid, NDMC shall determine whether each Technical Bid is responsive to the requirements of this Tender Document. NDMC reserves the right to reject any Technical Bid which is non-responsive and no request for alteration, modification, substitution or withdrawal shall be considered or permitted by NDMC in respect of such Technical Bid. While making any determination with respect to responsiveness of a Technical Bid, NDMC may consider such parameters as it may deem relevant, including but not limited to, whether the Bidder has any Conflict of Interest, and considerations that the Technical Bid:

- A. is received as per the prescribed formats along with all Supporting Documents or annexes required to be submitted in accordance with this Tender Document and with documentary evidence required to support its ability to meet the Eligibility Conditions and as required elsewhere in this Tender Document;
  - B. is received by the Bid Due Date including any extension thereof;
  - C. only one Technical Bid has been submitted by the Bidder;
  - D. is submitted both in electronic and physical form in the manner prescribed in this Tender Document;
  - E. is accompanied by the Bid Security as specified in Clause 10 and Tender Fee as specified in Clause 4.1.2 and the Supporting Documents;
  - F. is accompanied by a duly stamped and notarised Power of Attorney as specified in **Annexure IV** and an Affidavit as specified in **Annexure VI**;
  - G. contains all the information (complete in all respects in the format required) and that all relevant documents are signed, sealed and marked as required in this Tender Document, including the documents mentioned in Clause 7.1.2 (i) (B);
  - H. does not contain any condition, qualification or deviation;
  - I. is accompanied by an initial price offer submitted on the e-auction portal of MSTCL; and
  - J. is not non-responsive in terms hereof.
- (iv) The Technical Bids of only those Bidders who have submitted the Bids in both electronic and physical forms and have submitted an initial price offer and who have paid the Tender Fee and deposited the Bid Security shall be opened on the date mentioned in Clause 7.3 of this Tender Document and at Council Room, 3<sup>rd</sup> Floor, Palika Kendra, Parliament Street, New Delhi – 110 001 in the presence of the Bidders who choose to attend the bid opening event.
- (v) NDMC reserves the right to ask for any details, clarifications or any other information, to be submitted in writing from the Bidders for the purpose of evaluation of Technical Bids or otherwise. In the event any clarification(s) are sought by NDMC from a Bidder, then the same shall have to be provided by such Bidder within the time frame stipulated by NDMC. If a Bidder fails to provide the clarifications sought within the

stipulated timeframe then NDMC shall have the right to reject the Technical Bid submitted by such Bidder.

- (vi) Only those Bidders who are found to be eligible in accordance with the prescribed Eligibility Conditions as per Clause 3 of this Tender Document and whose initial price offer is greater than the Minimum Revenue Share and whose Technical Bids meet the requirements under this Tender Document shall be referred to as “**Technically Qualified Bidders**”.
- (vii) The highest initial price offer amongst the Technically Qualified Bidders shall be the floor price for the second round of online electronic auction (“**Floor Price**”).
- (viii) The Technically Qualified Bidders shall be ranked on the basis of the descending initial price offers submitted by them. On the basis of such ranking the Technically Qualified Bidders, holding first fifty per cent of the ranks (with any fraction rounded off to higher integer) or the top five (5) Technically Qualified Bidders, whichever is higher, shall be considered to be qualified for participating in the second round of online electronic auction (the “**Qualified Bidders**”). Intimation shall be restricted only to the Qualified Bidders.

Provided that where the total number of Technically Qualified Bidders is less than two (2), then no Technically Qualified Bidder shall be considered to be Qualified Bidder and the e-auction process shall be annulled.

Provided also that if the number of Technically Qualified Bidders is between two (2) and five (5), then all the Technically Qualified Bidders shall be considered as Qualified Bidders.

Provided also that in the event of identical initial price offers being submitted by two or more Technically Qualified Bidders, all such Technically Qualified Bidders shall be assigned the same rank for the purposes of determination of Qualified Bidders.

**Illustration:**

*In the event there are a total of ten Technically Qualified Bidders, and each Technically Qualified Bidder submits initial price offer, then the Technically Qualified Bidders holding the first fifty per cent of ranks shall be considered to be Qualified Bidders as illustrated below:*

<b>Name of Technically Qualified Bidder</b>	<b>Initial Price Offer (%)</b>	<b>Rank of Technically Qualified Bidder</b>	<b>Qualified Bidder</b>
Bidder 1	25.65%	1	<b>Yes</b>
Bidder 2	25.25%	2	<b>Yes</b>
Bidder 3	25.25%	2	<b>Yes</b>
Bidder 4	25.25%	2	<b>Yes</b>
Bidder 5	22.55%	3	<b>Yes</b>
Bidder 6	22.25%	4	<b>Yes</b>
Bidder 7	20.25%	5	No
Bidder 8	18.75%	6	No
Bidder 9	17.45%	7	No
Bidder 10	17.35%	8	No

**NDMC is not obliged to provide any explanation or clarification to Bidders who fail to qualify as Technically Qualified Bidders or Qualified Bidders.**

**7.1.3 Financial Bid**

- (i) Only Qualified Bidders shall be permitted to place their Financial Bids on the e-auction portal, on the Auction Date.
- (ii) The Qualified Bidders may submit their Financial Bids which must be greater than the Floor Price (i.e. the highest of the initial price offers received). The first Financial Bid of each Qualified Bidder must be more than the Floor Price by at least 0.10% (zero point one per cent). The Financial Bids may be increased till the conclusion of the Bidding Process in multiples of at least 0.10% (zero point one per cent) above the immediately preceding Financial Bid. Any Financial Bid that does not satisfy the above criteria shall be liable to be rejected.
- (iii) The Bidding Process shall be annulled if none of the Qualified Bidders submits a Financial Bid on the e-auction portal. In case the Bidding Process is annulled due to non-submission of at least one Financial Bid on the e-auction portal, the Bid Security of all such Qualified Bidders who have submitted the highest initial price offer i.e. the applicable Floor Price for the second round of e-auction, shall be forfeited and all such Qualified Bidders will not be eligible to participate in any tender or tender document issued by NDMC during a period of five (5) years from the date of such annulment.



- (iv) The Qualified Bidder who submits the Highest Price Offer shall be declared as the “**Successful Bidder**” immediately on conclusion of the e-auction.
- (v) Prior to submitting the Financial Bids, the Qualified Bidders shall carefully peruse the Licence Deed as provided in **Annexure I** of this Tender Document.

#### 7.1.4 Escalation

The Minimum Guarantee Fee shall be subject to revisions throughout the Licence Period in the form of:

- (i) Annual revision at the Escalation Rate, on the first day of every Financial Year falling after a period of eighteen (18) months after the Effective Date; and
- (ii) In the event the Licencee is unable to, for any reasons whatsoever, make the Property fully operational within a period not exceeding eighteen (18) months from the Effective Date, then till such time the Property is not fully operational, the Minimum Guarantee Fee shall be subject to revisions in the form of escalation at the simple rate of 3% (three per cent) monthly (i.e. 36% per annum), commencing from the expiry of eighteen (18) months from the Effective Date for first month delay. Provided that such Escalation for delay in making the Property fully operational will not be applicable after the Property is made fully operational, and the Minimum Guarantee Fee shall be calculated after applying Escalation in accordance with Clause 7.1.4 (i) above.

#### 7.2 Electronic Auction

The auction of the Property shall be conducted on an e-auction portal of MSTCL in accordance with the terms and conditions set out in **Annexure X**.

#### 7.3 Schedule of Bidding Process

The Schedule of bidding process shall be as follows:

S. No.	Event Description	Date
1.	Issue of Notice Inviting Tender (NIT) and publication of Tender Document	Saturday, September 01, 2018
2.	Last date for submission of queries (if any) by Bidders on the Tender and other legal documents.	18:00 hours (Indian Standard Time) of Friday, September 07, 2018
3.	Pre-Bid Conference	Friday, September 07, 2018
4.	Publication of responses to queries	Tuesday, September 11, 2018

<b>S. No.</b>	<b>Event Description</b>	<b>Date</b>
5.	Start of submission of Technical Bids	11:00 hours (Indian Standard Time) onwards of Wednesday, September 12, 2018
6.	<b>Last date for submission of Technical Bid and initial price offer (Bid Due Date)</b>	<b>On or before 15:00 hours (Indian Standard Time) of Thursday, September 20, 2018</b>
7.	Opening of Technical Bids	16:00 hours (Indian Standard Time) of Thursday, September 20, 2018
8.	Training and mock-auctions for all the Bidders on e-auction platform by the e-auction platform provider	Monday, September 24, 2018 and Tuesday, September 25, 2018
9.	Intimation to Qualified Bidders	Wednesday, September 26, 2018
10.	Auction Date	Friday, September 28, 2018
11.	Declaration of Successful Bidder	Friday, September 28, 2018
12.	Issue of Letter of Award to the Successful Bidder	latest by Monday, October 15, 2018
13.	Execution of Definitive Documents	Within 6 months from the date of Issue of Letter of Award to the Successful Bidder

## **8. SIGNING OF DEFINITIVE DOCUMENTS**

### **8.1 Issuance of Letter of Award**

NDMC shall issue the Letter of Award within fifteen (15) days from the date of declaration of Successful Bidder, as per the format provided in **Annexure II**, to the Successful Bidder only upon the Successful Bidder making the following payments:

#### **8.1.1 Transaction Expenses**

The Successful Bidder shall pay to NDMC a non-refundable amount of Rs. 2,20,00,000 (Rupees Two Crore and Twenty Lakh Only) plus applicable taxes as Transaction Expenses through RTGS/ NEFT/ IMPS into the bank account mentioned below within seven (7) days from the date of declaration of Successful Bidder.

<b>Bank Name</b>	:	<b>Axis Bank</b>
<b>Account Number</b>	:	<b>03510832802</b>
<b>Beneficiary Name</b>	:	<b>New Delhi Municipal Council</b>

<b>IFSC Code</b>	:	<b>UTIB0CCH274</b>
<b>Branch</b>	:	<b>Centralised Collection Hub</b>

*Note: The fifth character in the above IFSC code is the numeral “zero”*

#### 8.1.2 First Instalment of Upfront Fee

The Successful Bidder shall pay to NDMC a non-refundable amount of Rs. 26,68,23,909 (Rupees Twenty Six Crore Sixty Eight Lakh Twenty Three Thousand Nine Hundred and Nine only) equivalent to 50% (Fifty per cent) of the Upfront Fee through RTGS/ NEFT/ IMPS into the bank account mentioned in Clause 8.1.1 within seven (7) days from the date of declaration of Successful Bidder.

### 8.2 Signing of Licence Deed

NDMC and the Successful Bidder shall, within six (6) months from the date of issuance of Letter of Award, sign the Licence Deed, as per the format provided in **Annexure I**, subject to the satisfaction of the following conditions:

#### 8.2.1 Submission of Performance Security

The Successful Bidder shall submit to NDMC a performance security of an amount equal to Rs. 35,57,65,212 (Rupees Thirty Five Crore Fifty Seven Lakh Sixty Five Thousand Two Hundred and Twelve only) (the “**Performance Security**”) either (i) through RTGS (real time gross settlement) or NEFT (national electronic funds transfer) or IMPS (Immediate Payment Service) into the bank account mentioned in Clause 8.1.1, (no interest shall be payable in relation to such amounts) or, (ii) in the form of an unconditional, irrevocable on demand bank guarantee in the format specified in **Annexure V**, in favour of the Licensor as security against performance by the Licensee of its obligations under the Definitive Documents and the Tender Documents including payment of all amounts due and payable as per terms and conditions of the Definitive Documents and the Tender Documents within five (5) months from issuance of the Letter of Award.

#### 8.2.2 Payment of last instalment of Upfront Fee

The Successful Bidder shall pay to NDMC a non-refundable amount of Rs. 26,68,23,909 (Rupees Twenty Six Crore Sixty Eight Lakh Twenty Three Thousand Nine Hundred and Nine only) equivalent to balance 50% (Fifty per cent) of the Upfront Fee through RTGS/ NEFT/ IMPS into the bank account mentioned in Clause 8.1.1 within five (5) months from the date of issuance of Letter of Award.

#### 8.2.3 Obtaining of the necessary Security Clearances

The Successful Bidder shall be required to obtain the required security clearances from Delhi Police to be able to refurbish, operate, maintain and manage the Property in accordance with the provisions of the Licence Deed.

The Successful Bidder shall submit to NDMC copies of such security clearances within five (5) months from the date of issuance of Letter of Award.

#### 8.2.4 Execution of a Management Agreement with the Hotel Brand Owner

In the event that the Bidder had partnered with a Hotel Brand Owner during the Bidding Process for meeting the eligibility criteria under the Tender Document, execution of the Management Agreement with the Hotel Brand Owner and submission of a copy of such duly executed Management Agreement to NDMC within five (5) months from the date of issuance of Letter of Award.

### 8.3 **Forfeiture of Bid Security, Upfront Fee and Performance Security**

Upon the breach of any terms and conditions of the Tender Documents or if the Licence Deed is not executed within the timeframe stipulated herein due to a default of the Bidder and/ or Successful Bidder, NDMC shall be entitled to appropriate the entire Bid Security, Upfront Fee and the Performance Security. The Bidder agrees that the amounts so forfeited represent genuine estimate of losses and damages suffered by the NDMC due to the breach of any terms and conditions of the Tender Document.

## 9. **INSTRUCTIONS TO BIDDERS**

### 9.1 **General Terms of Bidding**

- 9.1.1 Notwithstanding anything to the contrary contained in this Tender Document, in the event of a conflict, the relevant provisions of the Definitive Documents shall have an overriding effect.
- 9.1.2 No Bidder is permitted to place more than one Bid, whether individually or along with any other Bidder(s).
- 9.1.3 Each Bidder is required to submit its Technical Bid in both physical form and as scanned copies on the e-auction portal of MSTCL. In case of a conflict between documents submitted electronically and document submitted physically, the documents submitted physically shall prevail.
- 9.1.4 **Each Bidder is required to submit its initial price offer only in an electronic form on the e-auction portal of MSTCL.**
- 9.1.5 Each Technical Bid shall be complete in all respects as specified in this Tender Document and in case of any missing document or information, such bid shall be treated as non-conforming and shall be liable to be rejected forthwith.
- 9.1.6 The documents including this Tender Document and all attached documents, provided by NDMC are and shall remain or become the properties of NDMC and are transmitted to the Bidders solely for the purpose of preparation and the submission of Bids in accordance herewith. Bidders are required to treat all

such information as strictly confidential and shall not use it for any purpose other than for preparation and submission of their Bid. The provisions of this Clause shall also apply *mutatis mutandis* to Bids and the Supporting Documents submitted by the Bidders as part of their Bid, and NDMC will not return to the Bidders any Bid, the Supporting Documents or any information provided along therewith other than the Bid Security which shall be returned in accordance with the terms hereof.

9.1.7 The Bid, the Supporting Documents and all related correspondence and documents in relation to the Bid shall be in English language. Supporting Documents and printed literature furnished by the Bidder may be in any other language provided that they are accompanied by appropriate translations of the pertinent passages in the English language, and are duly attested and certified to be true translations. Any Supporting Documents, which is not translated into English, will not be considered.

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

9.1.9 Bidders may note that NDMC will not entertain any deviations to this Tender Document at the time of submission of the Bids or thereafter. The Bids to be submitted by the Bidders should be unconditional and unqualified and the Bidders would be deemed to have accepted all the terms and conditions of this Tender Document. Any conditional Bid shall be regarded as non-responsive and would be rejected.

## 9.2 **Cost of Bidding**

Each Bidder shall be responsible for all costs and expenses associated with any due diligence, preparation of its Bid, the Supporting Documents and participation in the Bidding Process including attending any pre-bid conferences and undertaking site visits. NDMC will not be responsible or in any way liable for such costs, regardless of the conduct or outcome of the Bidding Process including suspension or cancellation of Bidding Process.

## 9.3 **Verification of information by the Bidders**

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

- (a) made a complete, independent and careful examination of the Tender Document and unconditionally and irrevocably accepted the terms thereof;

- (b) made careful examination and research of all required information, inputs, conditions, circumstances and factors that may have any effect on its Bid;
- (c) received and reviewed all relevant information provided by NDMC, as may be relevant to the Bid;
- (d) evaluated and accepted all the risks, contingencies and other circumstances which may influence or affect the operation and management of the Property;
- (e) accepted the risk of inadequacy, error or mistake in the information provided in the Tender Document or furnished by or on behalf of NDMC relating to any of the matters related to the Bidding Process or the Property;
- (f) satisfied itself about all matters regarding the Bidding Process and the Property, required for submitting an informed Bid, in accordance with this Tender Document and performance of all of its obligations;
- (g) acknowledged and agreed that inadequacy, lack of completeness or incorrectness of information provided in the Tender Document or ignorance of any of the matters related to the Bidding Process or the Property shall not be a basis for any claim for compensation, damages, extension of time for performance of its obligations, loss of profits etc. from NDMC or a ground for termination of the Definitive Document(s) by the Successful Bidder; and
- (h) agreed to be bound by the undertakings provided by it under and in terms hereof.

9.3.2 NDMC shall not be liable for any omission, mistake or error in respect of any of the information provided or on account of any matter or thing arising out of or concerning or relating to the Tender Document, the Tender Document or the Bidding Process, including any error or mistake therein or in any information or data given by NDMC.

#### 9.4 **Verification by NDMC and Disqualification**

9.4.1 NDMC reserves the right to verify all statements, information and documents submitted by the Bidder in response to the Tender Document and the Bidder shall, when so required by NDMC, make available in writing, all such information, evidence and documents as may be required by NDMC for such verification. For the avoidance of doubt, NDMC may at any time, in its sole discretion, seek any clarifications and/or any additional information in writing from any Bidder including the Successful Bidder which may be required by NDMC to verify all statements, information and documents submitted by such

Bidder in response to the Tender Document. Any such verification or lack of such verification by NDMC shall not relieve the Bidder of its obligations or liabilities hereunder nor will it affect any rights of NDMC thereunder.

- 9.4.2 NDMC reserves the right to reject any Bid, right to blacklist the Bidder and appropriate the entire Bid Security, Upfront Fee and Performance Security, as applicable, if:
- (a) at any time, a misrepresentation is made or uncovered, or if a Bidder gives incorrect/ inaccurate/ misleading information, or suppresses any material information/ facts in its Bid;
  - (b) if it comes to the notice of NDMC at any time, that the Bidder or its Subsidiary has, in the immediately preceding three (3) years from the date of submission of its Bid, has failed to perform on any contract awarded to it by NDMC, which is evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or an arbitration award against it, or it has been expelled from any project or contract awarded by NDMC or has terminated any contract or project assigned to it by NDMC due to a breach;
  - (c) the Bidder does not provide, within the time specified by NDMC, the supplemental information, evidence and documents sought by NDMC for evaluation of the Bid;
  - (d) any act or omission of the Bidder results in violation of or non-compliance with the New Delhi Municipal Council Act, 1994, this Tender Document, or any other document referred therein or issued pursuant thereto or any Applicable Law.
  - (e) any fraud and/ or corrupt practices (as defined under the Tender Document) is made or the Bidder was declared as ineligible due to corrupt or fraudulent practices in any prior bid process undertaken by NDMC in the immediately preceding three (3) years, or has been black-listed by NDMC;
  - (f) the Bidder has been declared bankrupt, insolvent or has pending against it, any litigation or proceedings, before any court or authority, in relation to liquidation, dissolution or winding-up;
  - (g) the Bid Security provided has lapsed or has been enforced by the NDMC in accordance with the terms of this Tender Document;
  - (h) the Bidder does not remit or provide the Upfront Fee, the Transaction Expenses or the Performance Security as per the terms of Tender Document or the Upfront Fee or the Performance Security provided has lapsed or has been enforced by the NDMC in accordance with the terms of this Tender Document;

- (i) the Bidder in breach of any provisions of the Tender Document; and
- (j) the Bidder or the Hotel Brand Owner violates the provisions of the joint undertaking provided by such Bidder along with the Hotel Brand Owner in the format specified in **Annexure XVI**.

9.4.3 In the event that at any time after execution of the Definitive Documents, it is discovered that one or more disqualification conditions specified in Clause 9.4.2 above were met, or any of the Eligibility Conditions have not been met by the Successful Bidder, then the Letter of Award stands cancelled and the Definitive Documents will be terminated with immediate effect. Further, without prejudice to any rights and remedies under any Applicable Law and/or agreement, NDMC shall be entitled to forfeit and appropriate the Upfront Fee and/or the Performance Security, as the case may be, without prejudice to any other right or remedy that may be available to NDMC under the Tender Document, or otherwise, without any liability whatsoever.

## 9.5 **Amendment of Tender Document**

9.5.1 At any time prior to the Bid Due Date, NDMC may, for any reason, whether at its own initiative or in response to clarifications requested by a Bidder, modify the Tender Document by issuance of an addendum or a corrigendum.

9.5.2 The Bidders shall keep themselves updated of any such addenda or corrigenda by continuously visiting the e-auction portal of MSTCL.

9.5.3 Any addenda or corrigenda issued to the Tender Document will be in writing and shall be accessible to all Bidders and shall be deemed to be part of the Tender Document.

9.5.4 In order to afford the Bidders a reasonable time for taking an addendum or a corrigendum into account, or for any other reason, NDMC may, in its sole discretion, extend the Bid Due Date.

## 9.6 **Preparation and Submission of Bids**

The Bids shall be submitted in accordance with the process specified in Clause 7.

## 9.7 **Bid Due Date and Extension**

9.7.1 Technical Bids along with the initial price offer should be uploaded and submitted on the e-auction portal of MSTCL before 15:00 hours Indian Standard Time on the Bid Due Date in accordance with the process specified in **Annexure X**. Physical copies of the Technical Bids should be submitted before 15:00 hours Indian Standard Time on the Bid Due Date at the address mentioned in Clause 7.1.2 (i) (B)

9.7.2 Notwithstanding anything to the contrary contained in this Tender Document, NDMC may anytime, in its sole discretion, extend or amend the Bid Due Date



or any other timeline by issuing an addendum or a corrigendum uniformly accessible for all Bidders.

**9.8 Late Bids**

Technical Bids and initial price offers received by NDMC after the specified time on the Bid Due Date shall not be eligible for consideration and shall be summarily rejected.

**9.9 Modifications/ Substitution/ Withdrawal of Bids**

9.9.1 A Bidder may modify, substitute or withdraw its Technical Bid and initial price offer after submission but prior to the Bid Due Date. No Technical Bid and initial price offer shall be modified, substituted or withdrawn by the Bidder on or after 15:00 hours Indian Standard Time of the Bid Due Date.

9.9.2 Any alteration or modification in the Technical Bid, initial price offer or additional information supplied subsequent to the Bid Due Date, unless the same has been expressly sought for by NDMC, shall be disregarded.

**9.10 Rejection of Bids**

9.10.1 Notwithstanding anything contained in this Tender Document, NDMC reserves the right to reject any Bid and/or to annul the Bidding Process and reject all Bids at any time without any liability or any obligation for such acceptance, rejection or annulment, and without assigning any reasons thereof. In case such rejection or annulment is pursuant to non-compliance by the relevant Bidders vis-a-vis submissions of Bid, then NDMC reserves the right to appropriate the Bid Security submitted by such non-compliant Bidder(s).

9.10.2 NDMC 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.

9.10.3 Without prejudice to the generality of the foregoing, NDMC reserves the right to reject any Bid on any criteria specified in this Tender Document, including without limitation, the following:

- (a) Bids have not been submitted with all the information and details listed in this Tender Document;
- (b) Bids are non-responsive;
- (c) Bids have been submitted without Tender Fee, Bid Security or initial price offer or for a period less than the Bid Validity Period;
- (d) a Bidder is disqualified under the provisions of this Tender Document; and/or
- (e) Bids have otherwise not been submitted in accordance with the Tender Document.

- 9.10.4 NDMC reserves the right to verify all statements, information and documents submitted by the Bidders in response to the Tender Document. Any such verification or lack of such verification by NDMC shall not relieve the Bidders of its obligations or liabilities hereunder nor will it affect any rights of the NDMC hereunder and shall not be construed as a waiver by NDMC of any of its rights and/or discretions hereunder or under Applicable Law.
- 9.10.5 The Bidders shall provide all information sought under this Tender Document. NDMC 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 for rejection.
- 9.10.6 The Bid shall contain no alterations, omissions or additions, except those necessitated to comply with instructions issued by NDMC, or as necessary to correct mistakes/ errors made by the Bidder, in which case such corrections shall be initialled by the Authorized Signatory of the Bidder.
- 9.10.7 Any information contained in the Bid shall be binding on the Bidder submitting it, if the Licence to operate and manage the Property is subsequently awarded to it under the Bidding Process on the basis of such information.

#### 9.11 **Bid Validity Period**

- 9.11.1 The Bids shall be valid for a period of not less than three hundred and sixty (360) days from the Bid Due Date ("**Bid Validity Period**"). The Bid Validity Period may be extended by the NDMC at any time in its sole discretion. NDMC reserves the right to reject any Bid, which does not meet this requirement. Prior to the expiry of the original Bid Validity Period, NDMC may extend the Bid Validity Period for an additional period as per its requirements.
- 9.11.2 In the event that pursuant to the Bidding Process, a Qualified Bidder has been declared to be the Successful Bidder, and the Bid Validity Period set out in Clause 9.11.1 above has expired or shall expire before the execution of all the Definitive Documents, then such Successful Bidder shall be obligated to forthwith extend the validity of its submitted Bid for such further period as conveyed by NDMC and upon such submission, the validity of Bid submitted shall stand extended for such period until which all the Definitive Documents are not executed between NDMC and such Successful Bidder.

#### 9.12 **Waiver of Immunity**

The Bidder unconditionally and irrevocably agrees that, should any proceedings be brought against it or its assets, property or revenues in any jurisdiction in relation to this Tender Document or any transaction contemplated by this Tender Document or pursuant thereto, no immunity (whether by reason of sovereignty or otherwise) from

such proceedings shall be claimed by or on behalf of such Bidder with respect to its assets.

## **10. BID SECURITY**

- 10.1 The Bidder shall furnish the Bid Security as a part of its Technical Bid.
- 10.2 Save and except as provided in this Tender Document, the Bid Security of Technically Qualified Bidders who have been unsuccessful will be returned by MSTCL, without any interest, within thirty (30) days after issuance of Letter of Award in favour of the Successful Bidder or, when the Bidding Process is cancelled/terminated by NDMC, whichever is earlier.
- 10.3 The Successful Bidder's Bid Security will be returned, without any interest, within a period of fifteen (15) days from the date of execution of the Licence Deed.
- 10.4 Any Technical Bid not accompanied by a Bid Security in accordance with this Clause, shall be rejected by NDMC as non-responsive.
- 10.5 NDMC shall be entitled to forfeit and appropriate the Bid Security as liquidated damages, *inter alia*, in any of the events specified in this Tender Document. The Bidder, by submitting its Bid pursuant to this Tender Document, shall be deemed to have acknowledged and confirmed that NDMC will suffer loss and damage on account of withdrawal of its Bid or on account of non-payment of Transaction Expenses or non-submission of Upfront Fee or Performance Security or for any other default by the Bidder as specified in this Tender Document. No relaxation of any kind on Bid Security shall be given to any Bidder.
- 10.6 The Bid Security shall be forfeited by NDMC as liquidated damages, without prejudice to any other right or remedy that may be available to NDMC under the Tender Document or under law or otherwise, *inter alia*, the following conditions:
- 10.6.1 If a Bidder submits a non-responsive Bid or, the Bidder is found to have failed to meet the Eligibility Conditions specified in the Tender Documents;
- 10.6.2 If a Bidder engages in a Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice and/or Restrictive Practice;
- 10.6.3 If a Bidder withdraws its Bid during the Bid Validity Period as specified in this Tender Document or as extended by mutual consent of the respective Bidder(s) and NDMC; and/or
- 10.6.4 In the case of Successful Bidder, if it fails within the specified time limit to sign all the Definitive Documents, and/or fails to submit the Upfront Fee and the Performance Security within the stipulated period.
- 10.6.5 If the auction process is annulled due to non-submission of at least one Financial Bid on the electronic auction platform, then;

- (a) the Bid Security of the Qualified Bidder, who has submitted the highest initial price offer which constituted the Floor Price.
- (b) in case, if two or more Qualified Bidders submitted the highest initial price offer, then the Bid Security of each such Qualified Bidder.

## **11. FRAUD AND CORRUPT PRACTICES**

- 11.1 The Successful Bidder and its shareholders and their respective officers, employees, Directors, representatives, contractors, agents and advisers shall observe the highest standard of ethics during the entire Bidding Process and till the execution of all the Definitive Documents. Notwithstanding anything to the contrary contained herein or in the Letter of Award or the Tender Document, NDMC may, at any time, withdraw the Letter of Award and/or cancel or annul the Bidding Process, without being liable in any manner whatsoever to the Successful Bidder, if NDMC determines that the Successful Bidder or any of its shareholders has, directly or indirectly, or through any Person, engaged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice and/or Restrictive Practice in the Bidding Process, the issuance of the Letter of Award or the execution of the Definitive Documents.
- 11.2 If NDMC determines that the Successful Bidder or any of its shareholders or any of their respective officers, employees, Directors, representatives, contractors, agents and advisers, as the case may be, has, directly or indirectly, or through any of other Person, engaged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice and/or Restrictive Practice in the Bidding Process, in the issuance of the Letter of Award or the execution of the Definitive Agreements, then NDMC shall be entitled to withdraw the Letter of Award and/or cancel or annul the Bidding Process and forfeit and appropriate the Bid Security, Upfront Fee and/or the Performance Security, as damages, without prejudice to any other right or remedy that may be available to it under the Tender Document or the Definitive Documents or under Applicable Law or otherwise.
- 11.3 Without prejudice to the rights of NDMC under Clause 9.10 and the rights and remedies which NDMC may have under the Letter of Award or the Definitive Documents, or otherwise, if the Successful Bidder or any of its shareholders or any of their respective officers, employees, Directors, representatives, contractors, agents and advisers, as the case may be, is found to have, directly or indirectly, or through any of other Person, engaged or indulged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Practice during the Bidding Process, or after the issuance of the Letter of Award or the during the Licence Period, then neither the Successful Bidder nor any of its shareholders or any of their respective officers, employees, Directors, representatives, contractors, agents and advisers, shall be eligible to participate in any tender or tender document issued by the Licensor during a period of five (5) years from the date it is found to have been, directly or indirectly, engaged or indulged in any Corrupt Practice, Fraudulent Practice, Coercive Practice, Undesirable Practice or Restrictive Practices, as the case may be.

## **12. GOVERNING LAW**

- 12.1 All matters relating to the Bidding Process and the tender procedure shall be governed by the laws of India. Only courts at New Delhi (with exclusion of all other courts) shall have jurisdiction to decide or adjudicate on any matter, which may arise.

**ANNEXURE I - FORMAT OF LICENCE DEED**

*(Enclosed as a separate booklet)*

## **ANNEXURE II - FORMAT OF LETTER OF AWARD**

*(to be issued on NDMC's Letterhead)*

**Ref. No.:** [insert reference no]

Date: [insert date]

To,

[Insert Name and Address of Successful Bidder]

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

Sir,

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

1. This is with reference to your bid for operating the Property, submitted pursuant to the tender document for selection of Bidders dated [insert date] (“**Tender Document**”) issued by the New Delhi Municipal Council (“**NDMC**”).
2. We are pleased to inform you that pursuant to the evaluation that you had submitted the Highest Price Offer in accordance with the Tender Document, you have been chosen as the Successful Bidder.
3. You have paid a non-refundable sum of Rs. 26,68,23,909 (Rupees Twenty Six Crore Sixty Eight Lakh Twenty Three Thousand Nine Hundred and Nine only) being equivalent to 50% of the Upfront Fee through [RTGS/ NEFT/ IMPS] [insert payment details such as UTR No. etc.] on [insert date].
4. You have paid a non-refundable sum of Rs. 2,20,00,000 (Rupees Two Crore and Twenty Lakh only) plus applicable taxes as the Transaction Expenses through [RTGS/NEFT/ IMPS] [insert payment details such as UTR No. etc.] on [insert date].
5. Under the terms of the Tender Document, you are required to submit the following to the NDMC:
  - (a) Deposit an amount of Rs. Rs. 26,68,23,909 (Rupees Twenty Six Crore Sixty Eight Lakh Twenty Three Thousand Nine Hundred and Nine only) being equivalent to the balance 50% of the Upfront Fee in the form of cash deposit through RTGS/ NEFT/ IMPS in the bank account mentioned in Clause 8.1.1 of the Tender Document;
  - (b) Submit a Performance Security of an amount equal to Rs. 35,57,65,212 (Rupees Thirty Five Crore Fifty Seven Lakh Sixty Five Thousand Two Hundred and Twelve only), either in the form of in the form of an irrevocable and unconditional bank guarantee, payable at New Delhi, from an Acceptable Bank as per the format provided in **Annexure V** of the Tender Document or in form of a non-interest

bearing cash deposit through RTGS/ NEFT/ IMPS into the bank account mentioned in Clause 8.1.1 of the Tender Document;

- (c) Obtain the required security clearances (if any) from the relevant authorities to be able to refurbish, operate, maintain and manage the Property in accordance with the provisions of the Licence Deed and submit to NDMC copies of such security clearances;
  - (d) Furnish certified true copies of your memorandum of association, articles of association, certificate of incorporation and statement of shareholding pattern. Further the main objects contained in its memorandum of association should provide for development, operation and management of hotels/resorts and provision of allied services; and
  - (e) {Submit a copy of the duly executed Management Agreement. }<sup>1</sup>
6. You are also required to execute the License Deed in the prescribed format with NDMC.
7. The actions specified under paragraph 5 above are required to be completed by [*insert date which is five (5) months from the date of intimation as the Successful Bidder*] and the actions specified under paragraph 6 above are required to be completed by [*insert date which is six (6) months from the date of intimation as the Successful Bidder*], failing which the Bid Security, Performance Security and Upfront Fee submitted by you shall be unconditionally appropriated and this LOA shall stand cancelled and annulled forthwith.
8. You are requested to sign and return the duplicate copy of this LOA to the office of the undersigned, as acknowledgement of this LOA, latest within three (3) days of the receipt of this LOA, failing which the Bid Security submitted by you shall be unconditionally appropriated and this LOA shall stand cancelled and annulled forthwith.

Sincerely,

[*Insert name and designation of the issuing authority*]

**New Delhi Municipal Council**

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<sup>1</sup> Applicable only in the event that the Successful Bidder had partnered with a Hotel Brand Owner during the Bidding Process for meeting the eligibility criteria under the Tender Document.



### **ANNEXURE III - FORMAT OF BID LETTER**

*(To be provided on the letter head of the Bidder. Each page of this Bid Letter is to be signed by the Authorized Signatory of the Bidder and should bear the Company stamp. Statements under paragraph 9 may be appropriately amended depending upon if the Bidder is bidding solely based on its own credentials or using the credentials of a Subsidiary along with its own credentials, or using the credentials of a partnering Hotel Brand Owner along with its own credentials)*

[date]

**To,**

**The Director (Estate – I)**

New Delhi Municipal Council

Palika Kendra

Parliament Street

New Delhi – 110 001

**Sub: Bid letter for the Property on Plot No. 1, Man Singh Road, New Delhi - 110011**

**Bidder Name: [to be inserted]**

**MSTCL Registration No: [to be inserted]**

**Ref:** Tender Document [insert reference number] dated [insert date] (“**Tender Document**”)

Dear Sir,

With reference to the Tender Document [insert reference number] dated [insert date], I, [insert name of Authorized Signatory], the Authorized Signatory of [insert name of the Bidder] (hereinafter referred to as the "Bidder" which expression shall unless it be repugnant to the subject or context thereof include its executors, administrators, successors and assigns), after having examined the Tender Document and understanding their contents, hereby submit the Technical Bid for the Property for and on behalf of [insert name of the Bidder]. Capitalized terms and expressions used herein but not defined shall have the same meaning as ascribed to them in the Tender Document.

1. We confirm that this Technical Bid being submitted is unconditional and unqualified and has been prepared in accordance with the terms and conditions set out under the Tender Document.
2. We have paid the Tender Fee of Rs. 5,00,000 (Rupees Five Lakh only) plus applicable taxes through the electronic payment gateway of MSTCL. We acknowledge and agree that the Tender Fee shall be a one-time, non-refundable, non-adjustable payment and we shall not seek adjustment or refund for it, in any manner whatsoever.
3. We have deposited the Bid Security of Rs. 25,00,00,000 (Rupees Twenty Five Crore only) through the electronic payment gateway of MSTCL.
4. We have submitted our initial price offer on the e-auction portal of MSTCL as per the process set out in Annexure X of the Tender Document.

5. We hereby confirm that we have verified all information provided by NDMC and have taken an informed decision to participate in the Bidding Process and will not challenge later the accuracy and authenticity of the information provided by NDMC.
6. We have read, examined and understood the terms of the Tender Document including the disclosure and hereby unconditionally and irrevocably accept, agree and acknowledge the terms thereof.
7. We acknowledge that NDMC will be relying on the information provided in the Technical Bid for selection of the Technically Qualified Bidder and Successful Bidder for the Property, and we certify that all information provided therein is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying the Bid are in originals and/or notarized (wherever required) and/or true copies of their respective originals.
8. This statement is made for the express purpose of our participation in the Bid Process and possible selection as the Successful Bidder.
9. We hereby confirm that [we/ we along with [insert name of Subsidiary] as our Subsidiary / we along with [insert name] as our partnering Hotel Brand Owner] satisfy all the Eligibility Conditions prescribed in the Tender Document. Specific confirmations with respect to our compliance with the Eligibility Conditions are provided below<sup>2</sup>:
  - a. {We continues to [own (freehold) or hold (under a lease or licence) and operates under our own Brands(s)/ operate under our own Brand(s)<sup>3</sup>], continuously for a period of at least five (5) continuous years prior to [insert date of submission of Technical Bid] the following hotel/ resort properties and each has at least one hundred (100) operational rooms:

Sl. No.	Name of Property, Location and Brand Name	Star Rating	Mode of Operation [Own and Operate/ Operate]	Mode of Ownership (Freehold/ Leasehold/ Licence hold/ Not Applicable)	No. of Operating Rooms
1.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
2.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
3.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
4.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
5.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	

<sup>2</sup> The Bidder shall, depending on its mode of satisfaction of the eligibility criteria in accordance with Clause 3.1.2, be required to provide the relevant certificate out of the options provided in a (i.e. one out of the three, as may be applicable).

<sup>3</sup> Appropriate wording needs to be selected depending on the Bidder's case.

A copy of the certificate(s) evidencing the 5 star rating of the aforesaid hotel(s)/resort(s) as issued by the Ministry of Tourism, Government of India, is enclosed in relation to demonstrating our aforesaid credentials.

A legal opinion, as procured by us from an independent legal counsel, is enclosed confirming that we are the owners of the Brand(s) mentioned above. }<sup>4</sup>

{We continue to [own (freehold) or hold (under a lease or licence) and operates under our own or [insert name of the Subsidiary] Brands(s)/ operate under our own or [insert name of the Subsidiary] Brand(s)], continuously for a period of at least five (5) continuous years prior to [insert date of submission of Technical Bid] the following hotel/ resort properties and each has at least one hundred (100) operational rooms:

Sl. No.	Name of Property, Location and Brand Name	Star Rating	Mode of Operation [Own and Operate/ Operate]	Mode of Ownership (Freehold/ Leasehold/ Licence hold/ Not Applicable)	No. of Operating Rooms
1.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
2.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
3.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	

A copy of the certificate(s) evidencing the 5 star rating of the aforesaid hotel(s)/resort(s) as issued by the Ministry of Tourism, Government of India, is enclosed in relation to demonstrating our aforesaid credentials.

A legal opinion, as procured by us from an independent legal counsel, is enclosed confirming that we are the owners of the Brand(s) mentioned above.

[insert name of the Subsidiary] continues [own (freehold) or hold (under a lease or licence) and operates under its own or our Brands(s)/ operate under its own or our Brand(s)], continuously for a period of at least five (5) continuous years prior to [insert date of submission of Technical Bid] the following hotel/ resort properties and each has at least one hundred (100) operational rooms:

Sl. No	Name of Property, Location and Brand Name	Star Rating	Mode of Operation [Own and Operate/ Operate]	Mode of Ownership (Freehold/ Leasehold/ Licence hold/ Not Applicable)	No. of Operating Rooms
1.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
2.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	

<sup>4</sup> Applicable in case of Bidder Type – 1.

A copy of the certificate(s) evidencing the 5 star rating of the aforesaid hotel(s)/resort(s) as issued by the Ministry of Tourism, Government of India, is enclosed in relation to demonstrating the aforesaid credentials.

A legal opinion, as procured by the [insert name of the Subsidiary], from an independent legal counsel is enclosed confirming that [insert name of the Subsidiary] of the Bidder is the owner of the Brand(s) mentioned above. }<sup>5</sup>

{We continue to own (freehold) or hold (under a lease or a licence) and operate, for a period of at least five (5) continuous years prior to [insert date of submission of *Technical Bid*] the following hotel/ resort properties and each has at least one hundred (100) operational rooms:

Sl. No.	Name of Property and Location and Brand Name	Star Rating	Mode of Ownership (Freehold/ Leasehold/ Licence hold/ Not Applicable)	No. of Operating Rooms
1.			(Freehold/ Leasehold/ Licence hold/ Not Applicable)	
2.			Mode of Ownership (Freehold/ Leasehold/ Licence hold/ Not Applicable)	

A copy of the certificate(s) evidencing the 5 star rating of the aforesaid hotel(s)/resort(s) as issued by the Ministry of Tourism, Government of India, is enclosed in relation to demonstrating the aforesaid credentials.

We have partnered with [insert name of Hotel Brand Owner] as a Hotel Brand Owner for the purpose of this bid. In the joint undertaking provided by us and [insert name of Hotel Brand Owner], [insert name of Hotel Brand Owner] has confirmed that it has branded under its own Brands or under Brands owned by its Associates, in the immediately preceding five (5) years continuously prior to [insert date of submission of *Technical Bid*] the following hotel/ resort properties and each has at least one hundred (100) operational rooms:

Sl. No.	Name of Property and Location	Star Rating	Brand Name	No. of Operating Rooms
1.				
2.				
3.				
4.				
5.				

<sup>5</sup> Applicable in case of Bidder Type – 2.

A copy of the certificate(s) evidencing the 5 star rating of the aforesaid hotel(s)/resort(s) as issued by the Ministry of Tourism, Government of India, is enclosed in relation to demonstrating the aforesaid credentials.

A legal opinion, as procured by the aforesaid Hotel Brand Owner, from an independent legal counsel is enclosed confirming that such Hotel Brand Owner or its Associate(s) is the owner of the Brand(s) mentioned above.

Please also find enclosed the joint undertaking (as per the format provided in Annexure XVI) being provided by us and [insert name of Hotel Brand Owner] as our partnering Hotel Brand Owner, *inter alia*, confirming that the Hotel Brand Owner with whom we have partnered for the purpose of this Bid satisfies the eligibility criteria set forth in Clause 3.1.2 of the Tender Document, and in the event that we are declared as the Successful Bidder, we and the partnering Hotel Brand Owner will enter into the Management Agreement having a term of at least 10 years from the Effective Date (*as defined in the Licence Deed*), prior to the execution of the Licence Deed.} <sup>6</sup>

- b. {Find enclosed a certified true copy of our audited accounts and financial statements for the last three (3) Financial Years along with certificate issued by our statutory auditor certifying the fulfilment of both Turnover and Net Worth conditions as stated in Clause 3 of the Tender Document wherein our average standalone Turnover was Rs. [insert amount in numbers]/- (Rupees [insert amount in words] only) for the Financial Years [●], [●] and [●], and our standalone Net Worth has been Rs. [insert amount in numbers]/- (Rupees [insert amount in words] only) as per the audited accounts for the Financial Year [●]} <sup>7</sup>;

{Find enclosed certified true copy of our and our Subsidiary's audited accounts and financial statements for the last three (3) Financial Years along with certificate issued by our and our Subsidiary's statutory auditors, certifying the fulfilment of both Turnover and Net Worth conditions as stated in Clause 3 of the Tender Document wherein our and our Subsidiary's combined average standalone Turnover was Rs. [insert amount in numbers]/- (Rupees [insert amount in words] only) for the Financial Years [●], [●] and [●], and our and our Subsidiary's combined Net Worth has been Rs. [insert amount in numbers]/- (Rupees [insert amount in words] only) as per the audited accounts for the Financial Year [●]. Our statutory auditors also certify that our average standalone Turnover was more than Rs, 175,00,00,000 (Rupees One Hundred and Seventy Five Crore only) for the Financial Years [●],[●] and [●], and our Net Worth was more than Rs. 150,00,00,000 (Rupees One Hundred and Fifty Crore only) as per the audited accounts for the Financial Year [●]} <sup>8</sup>;

- c. We confirm that as of the date of submission of the Technical Bid {our/ our and our Subsidiary's} standalone annual audited financial statements for the Financial Year 2017-18 have not been finalized. [*To delete if not applicable*]
- d. We acknowledge and agree to pay the Transaction Expenses to NDMC and submit

<sup>6</sup> Applicable in case of Bidder Type – 3.

<sup>7</sup> Applicable in case of Bidder Type – 1 or Bidder Type – 3.

<sup>8</sup> Applicable in case of Bidder Type – 2.

with NDMC the Upfront Fee and Performance Security, if selected as the Successful Bidder, at the time of accepting the Letter of Award;

- e. We acknowledge and agree that the Transaction Expenses shall be a one-time non-refundable non-adjustable payment and we shall not seek adjustment or refund for it, in any manner whatsoever;
  - f. Find enclosed the general information about us or, [about us and our Subsidiary] (as the case may be);
  - g. Find enclosed our shareholding pattern or, our and our Subsidiary's shareholding pattern (as the case may be);
  - h. [Intentionally Left Blank] / [Find enclosed our undertaking that the our Subsidiary (as per the format provided in **Annexure XIII**) whose experience has being relied upon by us for the purposes of meeting the eligibility criteria shall, at all times during the Bid Validity Period and during the first seven (7) years of the term of the Licence Agreement (if selected as the Successful Bidder), remain to be our Subsidiary and the Subsidiary has no objection to its experience being utilized for the purposes of this Tender Document.];
  - i. Find enclosed the original notarised Power of Attorney issued by [insert name and designation of issuing authority] authorizing myself [insert name of Authorized Signatory] to act as the Authorized Signatory of [insert name of Bidder], duly signed by the Chairman/ Managing Director/ Chief Executive Officer of [insert name of Bidder] and certified true copy of the resolution passed by the board of Directors of the Bidder in this regard forms part of the Supporting Bid Submissions;
  - j. We will pay, if selected as the Successful Bidder, all statutory dues relating to the Property, prior to its respective due date(s) and in the event NDMC is required to pay any statutory dues, in compliance with Applicable Laws, then we shall reimburse to NDMC, the said amounts, within a period of thirty (30) days from the date such demand is raised by NDMC.
  - k. We do not have any Conflict of Interest as defined under Clause 3.1.3 that affects the Bidding Process.
  - l. We and none of our Directors, Promoters or Associates figure in any list of wilful defaulters maintained by the Reserve Bank of India or, have been charge sheeted, or convicted by a Court of law for any offence committed for any financial crimes or money-laundering activities. Further, we or our Directors, Promoters or Associates have not been blacklisted, debarred or suspended by any governmental authority in India, World Bank or United Nations in relation to any public procurement works/contracts.
  - m. Neither we and nor our Promoters' have an account, which has been classified as a non-performing asset in accordance with the guidelines of the Reserve Bank of India issued under the Banking Regulation Act, 1949 as of the date of submission of the Technical Bid.
10. We hereby acknowledge that if we submit or produce any document and it is discovered subsequently that such document was false, incorrect or not genuine then we

shall be liable under the Applicable Law for the time being in force.

11. We shall make available to NDMC any additional information NDMC may find necessary or require to supplement or to authenticate the Technical Bid.
12. We acknowledge the right of NDMC to reject our Technical Bid and/or the highest Financial Bid without assigning any reason or otherwise and hereby waive, to the fullest extent permitted by Applicable Law, our right to challenge the same on any account whatsoever.
13. We declare that:
  - a. 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 under the Tender Document, in respect of any tender or request for proposal issued by or any agreement entered into with NDMC; and
  - b. No undisputed dues or undisputed outstanding payments are pending with NDMC for a period more than sixty (60) days after the due date.
14. We understand that NDMC may cancel the Bidding Process at any time and that NDMC is neither bound to accept any Bid that it may receive nor to invite the Bidders to Bid for the Property, without incurring any liability to the Bidders, in accordance with the Tender Document.
15. 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 NDMC in connection with the selection of the Successful Bidder, or in connection with the tender process itself, in respect of the Tender Document and the terms and implementation thereof.
16. In the event of being declared as the Successful Bidder, we agree to obtain the required security clearances from the relevant authorities to be able to refurbish, operate, maintain and manage the Property in accordance with the provisions of the Licence Deed and submit to NDMC copies of such security clearances and enter into the Licence Deed and other documents in accordance with the Tender Document and pay such amounts and provide such security as required therein.
17. The Financial Bid to be submitted by us on the e-auction portal if selected as the Technically Qualified Bidder will be submitted in the manner set out in the Tender Document.
18. We would ensure that all documents submitted/ required to be submitted as part of Bidding Process have been submitted both electronically as Portable Document Format (“PDF”)/ scanned PDF files and physically.
19. We acknowledge that if we submit or produce any document and it is discovered subsequently that such document was false or incorrect then we shall be liable under the Applicable Laws for the time being in force.
20. We have ensured compliance with the Tender Document and to the best of our

knowledge this bid is conforming to the terms thereof.

21. We agree and understand that the Technical Bid and Financial Bid are subject to the provisions of the Tender Document. In no case, we shall have any claim or right of whatsoever nature if the Licence is not awarded to us or our bid is not opened or rejected.
22. The Technical Bid, initial price offer and Financial Bid shall be submitted by us after taking into consideration all the terms and conditions stated in the Tender Document, our own estimates of costs and feasibility and after a careful assessment of information related to the Property and all the conditions that may affect the operations of the Property.
23. We shall keep this offer valid for three hundred and sixty (360) days from the Bid Due Date specified in the Tender Document.

In witness thereof, we submit this bid letter forming part of our Technical Bid under and in accordance with the terms of the Tender Document.

Yours faithfully,

For and on behalf of [insert name of the Bidder]

(Signature)

[Name of the Authorised signatory]

[Designation of the Authorised signatory]

Date: [insert date]

Place: [insert place]

Enclosed:

List and description of documents enclosed.



## **ANNEXURE IV - FORMAT OF POWER OF ATTORNEY**

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

### **Power of Attorney for submitting the Technical Bid and Price Offer**

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

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

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

For [●]  
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

Accepted Notarised

(Signature, name, designation and address of the Attorney)

Notes:

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

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

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

## ANNEXURE V - FORMAT OF BANK GUARANTEE

B.G. No. Dated: [insert date]

1. In consideration of you, New Delhi Municipal Council, having its office at Palika Kendra Building, Opposite Jantar Mantar, Parliament Street, New Delhi - 110001 (hereinafter referred to as the “NDMC”, which expression shall unless it be repugnant to the subject or context thereof include its, successors and assigns) having agreed to enter into a Licence Deed with [insert name of Licencee] (a company registered or exiting under the Companies Act, 1956/ 2013) and having its registered office at [insert address of registered office of Licencee] (hereinafter referred to as the “**Successful Bidder**” or the “**Licencee**” which expression shall unless it be repugnant to the subject or context thereof include its/their executors, administrators, successors and assigns), for the running of the property located on Plot No 1, Man Singh Road, New Delhi-110011 pursuant to the Tender Document [insert tender document reference number] dated [insert tender document date] issued in respect of the property, we (name of the bank) having our registered office at [insert address of registered office of the Bank] and one of its branches at [insert address of relevant branch of the Bank] (hereinafter referred to as the “**Bank**”), at the request of the Licencee, do hereby in terms of Clause 4.4.2 of the Licence Deed, irrevocably, unconditionally and without reservation guarantee the due and faithful fulfilment and compliance of the terms and conditions of the Tender Document and the Licence Deed (“**Bidding Documents**”) by the said Licencee and unconditionally and irrevocably undertake to pay forthwith to the NDMC an amount of Rs. [insert amount in figures] (Rupees [insert amount in words] only) (hereinafter referred to as the “**Guarantee**”) without any demur, reservation, recourse, contest or protest and without reference to the Licencee if the Successful Bidder or the Licencee shall fail to fulfil or comply with all or any of the terms and conditions contained in the said Bidding Documents.
2. A written demand made by the NDMC stating that the Successful Bidder or the Licencee is in default of the due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents and/or the License Deed 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 Successful Bidder or the Licencee or any other person and irrespective of whether the claim of the NDMC is disputed by the Successful Bidder or the Licencee or not, merely on the first written demand in the prescribed format below from the NDMC stating that the amount claimed is due to the NDMC by reason of failure of the Successful Bidder or the Licencee to fulfil and comply with the terms and conditions contained in the Bidding Documents including failure of the said Successful Bidder to keep its Bid open during the Bid Validity Period as set forth in the said Bidding Documents for any reason whatsoever. Any such demand made on the Bank shall be conclusive as regards amount due and payable by the Bank under this Guarantee. However, our liability under this Guarantee shall be restricted to an amount not exceeding Rs [insert amount in figures] (Rupees [insert amount in words] only).

4. This Guarantee shall be irrevocable and remain in full force for a period of three (3) years, i.e., until [*insert date falling three years after the issue date*] (the “**Expiry Date**”) and shall continue to be enforceable till all amounts claimed under this Guarantee have been paid.
5. We, the Bank, further agree that the NDMC shall be the sole judge to decide as to whether the Successful Bidder or the Licencee is in default of due and faithful fulfilment and compliance with the terms and conditions contained in the Bidding Documents and/or the License Deed, and the decision of the NDMC that the Successful Bidder or the Licencee is in default as aforesaid shall be final and binding on us, notwithstanding any differences between the NDMC and the Successful Bidder or the Licencee or any dispute pending before any Court, Tribunal, Arbitrator or any other NDMC.
6. The Guarantee shall not be affected by any change in the constitution or winding up of the Successful Bidder or the Licencee or the Bank or any absorption, merger or amalgamation of the Successful Bidder or the Licencee or the Bank with any other person.
7. In order to give full effect to this Guarantee, the NDMC shall be entitled to treat the Bank as the principal debtor. The NDMC shall have the full liberty without affecting in any way the liability of the Bank under this Guarantee from time to time to vary any of the terms and conditions contained in the said Bidding Documents or to extend time for submission of the Bids or the Bid validity period or the period for conveying acceptance of Letter of Award by the Successful Bidder or the period for fulfilment and compliance with all or any of the terms and conditions contained in the said Bidding Documents and/or the License Deed by the said Successful Bidder or the Licencee or to postpone for any time and from time to time any of the powers exercisable by it against the said Successful Bidder or the Licencee and either to enforce or forbear from enforcing any of the terms and conditions contained in the said Bidding Documents and/or the License Deed or the securities available to the NDMC, and the Bank shall not be released from its liability under these presents by any exercise by the NDMC of the liberty with reference to the matters aforesaid or by reason of time being given to the said Successful Bidder or the Licencee or any other forbearance, act or omission on the part of the NDMC or any indulgence by the NDMC to the said Successful Bidder or the Licencee or by any change in the constitution of the NDMC 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, registered post AD or, by hand delivery to the Bank at the address set forth herein.
9. We undertake to make the payment immediately upon receipt of your notice of claim on us addressed to [*insert 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 NDMC to proceed against the said Successful Bidder or the Licencee before proceeding against the Bank and the guarantee herein contained shall be enforceable against the Bank, notwithstanding any other security which the NDMC may have obtained from the said Successful Bidder or the Licencee 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 NDMC 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 Rs. [insert amount in figures] (Rupees [insert amount in words] only). The Bank shall be liable to pay the said amount or any part thereof only if the NDMC serves a written claim on the Bank in accordance with paragraph 9 hereof, on or before 5.00 pm Indian Standard Time on the Expiry Date.

Signed and Delivered by ..... Bank

By the hand of Mr./ Ms. ...., its ..... and authorised official.  
(Signature of the Authorised Signatory) (Official Seal)

### **FORMAT OF DEMAND LETTER**

[On letterhead of NDMC]

To,  
[Details of the Branch]  
Attn: [Designation of person]

**Sub: Bank Guarantee No. [insert bank guarantee number] dated [insert date]**

Dear Sir/Ma'am,

This is with reference to aforementioned bank guarantee issued by you on behalf of [insert name of Licencee/ or of the Successful Bidder] (the **Licencee/** or the **Successful Bidder**). The [Successful Bidder/ Licencee] is in default of the terms and conditions of the [Licence Agreement, Tender Document and/or other Definitive Documents].

We hereby invoke the bank guarantee and direct you to forthwith pay the amounts to us as per details below:

*[Details of amount (if partial) and bank account details of NDMC]*

Your faithfully,  
For and on Behalf of **New Delhi Municipal Council**

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

## ANNEXURE VI - FORMAT OF AFFIDAVIT

I, [●] (“**Deponent**”), son of [●], resident of [●], the [insert designation] of [insert name of the Bidder] (hereinafter referred to as the “**Bidder**”) do hereby solemnly affirm and declare that:

- a) the Bidder is a duly organized, validly existing and in good standing under the laws of India;
- b) the Bidder has full power and authority to execute, deliver and perform its obligations under this Licence Deed and to carry out the transactions contemplated hereby;
- c) the Bidder has taken all necessary corporate and other action under Applicable Laws and its constitutional documents to authorize the execution, delivery and performance of this Licence Deed;
- d) the Bidder has the financial standing and capacity to undertake the commercial utilization of Property.
- e) the Licence Deed, if executed, will constitute legal, valid and binding obligation enforceable against it in accordance with the terms hereof;
- f) there are no actions, suits, proceedings or investigations pending or to the Bidder’s/ Licensee’s knowledge threatened against the Bidder/ Licensee at law or in equity before any court or before any other judicial, quasi-judicial or other authority, the outcome of which may constitute the Licensee Event of Default or which individually or in the aggregate may result in breach of the License Deed;
- g) the Bidder has no knowledge of any violation or default with respect to any order, writ, injunction or any decree of any court or any legally binding order of any Governmental Authority which may result in breach of the License Deed;
- h) the Bidder has complied with all applicable law and has not been subject to any fines, penalties, injunctive relief or any other civil or criminal liabilities which in the aggregate have or may have breach of the License Deed;
- i) no representation or warranty by the Bidder/ Licensee contained herein or in any other document furnished by the Bidder/ Licensee to NDMC or to any Governmental Authority in relation to Applicable Permits contains or shall contain any untrue statement of material fact or omits or shall omit to state a material fact necessary to make such representation or warranty not misleading;
- j) the Bidder also acknowledges and hereby accepts the risk of inadequacy, mistake or error in or relating to any of the matters set forth above and hereby confirms that NDMC shall not be liable for the same in any manner whatsoever to the Bidder/ Licensee;

- k) the Bidder shall make its own arrangements in engagement of its staff and labour and shall at no point represent to or claim that the staff, labour is being recruited for and on behalf of NDMC. The Bidder/ Licensee shall at all times comply and represent to the staff and labour employed/ engaged by them the requirement for complying with Applicable Laws and Applicable Permits, particularly in relation to safety and environmental regulations;
- l) {the Bidder desires to partner with **[insert name of the Hotel Brand Owner]**, having its registered office at [●] (hereinafter referred to as the “**Hotel Brand Owner**”), to satisfy the eligibility criteria set forth in Clause 3.1.2 of the Tender Document, and the Hotel Brand Owner consents to such partnership;}<sup>9</sup>
- m) {the Hotel Brand Owner owns the Brand, **[insert name of the Brand]**, registered as a trademark under the laws of **[insert name of the country where the Brand is registered]** and the Hotel Brand Owner’s Associate, **[insert name of the Associate]** owns the Brand, **[insert name of the Brand]**, registered as a trademark under the laws of **[insert name of the country where the Brand is registered]**}<sup>10</sup>
- n) {to the best of the Bidder’s knowledge and belief, the Hotel Brand Owner satisfies the minimum eligibility criteria under the Tender Document}<sup>11</sup>

**DEPONENT**

**Verification:**

I, the Deponent do verify that the contents of this Affidavit are true to the best of my knowledge and belief.

Hence, verified on the \_\_\_\_\_ day of [●], [2018] at \_\_\_\_\_.

**DEPONENT**

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<sup>9</sup> Applicable only in the event that the Bidder had partnered with a Hotel Brand Owner for meeting the eligibility criteria under the Tender Document.

<sup>10</sup> Applicable only in the event that the Bidder had partnered with a Hotel Brand Owner for meeting the eligibility criteria under the Tender Document. The clause may be suitably amended depending on the actual ownership of Brands which are being used to meet the eligibility criteria.

<sup>11</sup> Applicable only in the event that the Bidder had partnered with a Hotel Brand Owner for meeting the eligibility criteria under the Tender Document.





Mr. Sanjay Jain, learned Additional Solicitor General appearing for the New Delhi Municipal Council at length.

After perusing the material available on record, we do not intend to pass any order on this Special Leave Petition except that we allow the respondent - N.D.M.C. to hold the e-auction of the property in question, but at the time of holding such auction, they shall take into account the unblemished track record of the petitioner - Hotel as well as its capability. The respondent - N.D.M.C. shall consider all these aspects, in the peculiar facts and circumstances of this case, when they use their power under Section 141 of the New Delhi Municipal Council Act, 1994 and take a final decision in the matter.

After holding e-auction, if the N.D.M.C. comes to a conclusion to give the Hotel in question in favour of any other entity, in that event, it shall give breathing space of six months' time to the petitioner to vacate the hotel property, on filing of appropriate undertaking within a period of four weeks, from that date.

The Special Leave Petition is disposed of in the afore-stated terms.

Consequent upon the disposal of the Special Leave Petition, pending applications filed in the matter are also disposed of.

(VISHAL ANAND)  
COURT MASTER

(SNEH LATA SHARMA)  
COURT MASTER

## **ANNEXURE VIII - FORMAT OF INTEGRITY PACT**

### **General**

This pre-bid pre-contract Agreement (hereinafter called the Integrity Pact) is made on \_\_\_\_\_ day of the month of \_\_\_\_\_ 20\_\_\_\_, between, on one hand, the New Delhi Municipal Council (NDMC) acting through Shri Y.V.V.J. Rajasekhar, Director (Estate-I), NDMC of the First Part and M/s \_\_\_\_\_ represented by Shri \_\_\_\_\_, Designation (hereinafter called the “**Bidder**” which expression shall mean and include, unless the context otherwise requires, his successors and permitted assigns ) of the Second Part.

**Whereas** the NDMC proposes to auction the licence rights of the immovable property being the plot of land admeasuring 3.78 acres situated at Plot No. 1, Man Singh Road, New Delhi - 110011, including the building constructed thereon, and all other facilities and appurtenances constructed or standing thereon, more particularly described in **Annexure IX** of the Tender Document No: [insert tender document no] dated [insert tender document date], through the Bidder(s) and the Bidder(s) is willing to offer/ has offered the same.

**Whereas** the Bidder is a company incorporated under the Companies Act, 1956/ 2013 NDMC is a Body Corporate established under the provisions of the New Delhi Municipal Council Act, 1994 performing its functions on behalf of the Council.

### **Now, therefore,**

To avoid all forms of corruption by following a system that is fair, transparent and free from any influence/prejudiced dealings prior to, during and subsequent to the currency of the contract to be entered into with a view to:-

Enabling NDMC to obtain the desired said works/ services at a competitive price in conformity with the defined specifications by avoiding the high cost and the distortionary impact of corruption on public procurement, and

Enabling Bidders to abstain from bribing or indulging in any corrupt practice in order to secure the contract by providing assurance to them that their competitors will also abstain from bribing and other corrupt practices and the NDMC will commit to prevent corruption, in any form, by its officials by following transparent procedures.

The parties hereto hereby agree to enter into this Integrity Pact and agree as follows:

### **1. Commitments of NDMC**

- 1.1. NDMC undertakes that no official of NDMC, connected directly or indirectly with the contract, will demand, take a promise for or accept, directly or through intermediaries, any bribe, consideration, gift, reward, favour or any material or immaterial benefit or any other advantage from the Bidder, either for themselves or for any person, organization or third party related to the contract in exchange for an advantage in the bidding process, bid evaluation, contracting or implementation process related to the contract.
- 1.2. NDMC will, during the pre-contract stage, treat all Bidders alike, and will provide to all Bidders the same information and will not provide any such information to any

particular Bidder which could afford an advantage to that particular Bidder in comparison to other Bidders.

- 1.3. All the officials of NDMC will report to the appropriate Government office or Municipal office any attempted or completed breaches of the above commitments as well as any substantial suspicion of such a breach.
- 1.4. In case any such preceding misconduct on the part of such official(s) is reported by the Bidder to NDMC with full and verifiable facts and the same is prima facie found to be correct by NDMC, necessary disciplinary proceedings, or any other action as deemed fit, including criminal proceedings may be initiated by NDMC and such a person shall be debarred from further dealings related to the contract process. In such a case while an enquiry is being conducted by NDMC the proceedings under the contract would not be stalled.

## **2. Commitments of Bidders**

The Bidder commits itself to take all measures necessary to prevent corrupt practices, unfair means and illegal activities during any stage of its bid or during any pre-contract or post-contract stage in order to secure the contract or in furtherance to secure it and in particular commit itself to the following:-

- 2.1. The Bidder will not offer, directly or through intermediaries, any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees, brokerage or inducement to any official of NDMC, connected directly or indirectly with the bidding process, or to any person, organization or third party related to the contract in exchange for any advantage in the bidding, evaluation, contracting and implementation of the contract.
- 2.2. The Bidder further undertakes that it has not given, offered or promised to give, directly or indirectly any bribe, gift, consideration, reward, favour, any material or immaterial benefit or other advantage, commission, fees brokerage or inducement to any official of NDMC or otherwise in procuring the Contract or forbearing to do or having done any act in relation to the obtaining or execution of the contract or any other contract with the Government, including NDMC, for showing or forbearing to show favour or disfavor to any person in relation to the contract or any other contract with the Government, including NDMC.
- 2.3. Bidders shall disclose the name and address of agents and representatives and Indian Bidders shall disclose their foreign principals or associates.
- 2.4. Bidders shall disclose the payments to be made by them to such agents/brokers or any other intermediaries, in connection with this bid/contract.
- 2.5. The Bidder further confirms and declares to NDMC that the Bidder has not engaged any individual or firm or company whether Indian or foreign to intercede, facilitate or in any way to recommend to NDMC or any of its functionaries, whether officially, or unofficially to the award of the contract to the Bidder, nor has any amount been paid, promised or intended to be paid to any such individual, firm or company in respect of any such intercession, facilitation or recommendation.

- 2.6. The Bidder, either while presenting the bid or during pre-contract negotiations or before signing the contract, shall disclose any payments he has made, is committed to or intends to make to officials of NDMC or their family members, agents, brokers or any other intermediaries in connection with the contract and the details of services agreed upon for such payments.
- 2.7. The Bidder will not collude with other parties interested in the contract to impair the transparency, fairness and progress of the bidding process, bid evaluation, contracting and implementation of the contract.
- 2.8. The Bidder will not accept any advantage in exchange for any corrupt practice, unfair means and illegal activities.
- 2.9. The Bidder shall not use improperly, for purposes of competition or personal gain, or pass on to others, any information provided by NDMC as part business relationship, regarding plans, technical proposals and business details, including information contained in any electronic data carrier. The Bidder also undertakes to exercise due and adequate care lest any such information is divulged.
- 2.10. The Bidder commits to refrain from giving any complaint directly or through any other manner without supporting it with full and verifiable facts.
- 2.11. The Bidder shall not instigate or cause to instigate any third person to commit any of the actions mentioned above.
- 2.12. If the Bidder or any employee of the Bidder or any person acting on behalf of the Bidder, either directly or indirectly, is a relative of any of the officers of NDMC, or alternatively, if any relative of an officer of NDMC has financial interest/ stake in the Bidder's firm, the same shall be disclosed by the Bidder at the time of filing of tender. The term 'relative' for this purpose would be as defined in Section 6 of the Companies Act 1956 / Section 2(77) of the Companies Act, 2013.
- 2.13. The Bidder shall not lend to or borrow any money form or enter into any monetary dealings or transaction, directly or indirectly, with any employee of NDMC.

### **3. Previous Transgression**

- 3.1. The Bidder declares that no previous transgression occurred in the last three years immediately before signing of this Integrity Pact, with any other company in any country in respect of any corrupt practices envisaged hereunder or with any Public Sector Enterprise in India or any Government in India, including New Delhi Municipal Council that could justify Bidder's exclusion from the tender process.
- 3.2. The Bidder agrees that if it makes incorrect statement on this subject, Bidder can be disqualified from the tender process or the contract, if already awarded, can be terminated for such reason.

### **4. Bid Security and Performance Security**

- 4.1. While submitting commercial bid, the Bidder shall deposit an amount Rs. 25,00,00,000 (Rupees Twenty Five Crore Only) as Bid Security, with the NDMC through the electronic payment gateway of MSTCL.
- 4.2. The Bid Security shall be valid during the entire Bid Validity Period.

- 4.3. If selected as the Successful Bidder, the Bidder shall deposit a Performance Security for an amount equal to Rs. 35,57,65,212 (Rupees Thirty Five Crore Fifty Seven Lakh Sixty Five Thousand Two Hundred and Twelve only) which shall be renewed periodically as per the terms of the Licence Deed.
- 4.4. In case of the successful Bidder a clause would also be incorporated in the Article pertaining to Performance Security in the Leave and Licence Agreement that the provisions of Sanctions for Violation shall be applicable for forfeiture of Performance Security in case of a decision by NDMC to forfeit the same without assigning any reason for imposing sanction for violation of this Pact.
- 4.5. No interest shall be payable by NDMC to the Bidder on Bid Security and the Performance Security for the period of its currency.

## **5. Sanctions for Violations**

- 5.1. Any breach of the aforesaid provisions by the Bidder or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder) shall entitle NDMC to take all or any one of the following actions, wherever required:-
- i. To immediately call off the pre contract negotiations without assigning any reason or giving any compensation to the Bidder. However, the proceedings with the other Bidder(s) would continue.
  - ii. The Bid Security and/or Performance Security shall stand forfeited either fully or partially, as decided by NDMC and NDMC shall not be required to assign any reason therefor.
  - iii. To immediately cancel the Licence Deed, if already signed, without giving any compensation to the Bidder.
  - iv. To recover all sums already paid by NDMC, if any, and in case of an Indian Bidder with interest thereon at 2% higher than the prevailing Prime Lending Rate of State Bank of India, while in case of a Bidder from a country other than India with interest thereon at 2% higher than the LIBOR. If any outstanding payment is due to the Bidder from the NDMC in connection with any other contract for any other stores/ work/ services/ item/ equipment, such outstanding payment could also be utilized to recover the aforesaid sum and interest.
  - v. To cancel all or any other contracts with the Bidder. The Bidder shall be liable to pay compensation for any loss or damage to NDMC resulting from such cancellation/ rescission and NDMC shall be entitled to deduct the amount so payable from the money(s) due to the Bidder.
  - vi. To debar the Bidder from participation in future bidding processes of NDMC, for a minimum period of five (5) years, which may be further extended at the discretion of NDMC. Further, NDMC shall have the right to intimate other government departments/ authorities/ bodies for initiating any further action.

- vii. To recover all sums paid in violation of this Pact by Bidder to any middleman or agent or broker with a view to securing the contract.
- 5.2. NDMC will be entitled to take all or any of the actions mentioned at para 5.1 (i) to (vii) of this Pact also on the commission by the Bidder or any one employed by it or acting on its behalf (whether with or without the knowledge of the Bidder), of an offence as defined in Chapter IX of the Indian Penal Code, 1860 or Prevention of Corruption Act, 1988 or any other statute enacted for prevention of corruption.
- 5.3. The decision of NDMC to the effect that a breach of the provisions of this Pact has been committed by the Bidder shall be final and conclusive on the Bidder. However, the Bidder can approach the Independent Monitor(s) appointed for the purposes of this Pact.

**6. Independent External Monitors**

- 6.1. NDMC has appointed Independent External Monitors (hereinafter referred to as Monitors) for this Pact in consultation with the Central Vigilance Commission, whose names and email IDs are as follows:

- 1. Shri V. K. Gupta IEM vinod101951@gmail.com
- 2. Shri D. K. Sharma IEM shharmadk@gmail.com

NDMC has adopted integrity pact for all its contract for Rs.50 lakh and above. It is mandatory for the Bidder to sign the Integrity Pact. The bid of Bidder who does not sign the Integrity Pact shall not be considered. Integrity Pact is deemed as part of the contract so that the parties concerned are bound by its provisions.

- 6.2. The task of the Monitors shall be to review independently and objectively, whether and to what extent the parties comply with the obligations under this pact.
- 6.3. The Monitors shall not be subject to instructions by the representatives of the parties and perform their functions neutrally and independently.
- 6.4. Both the parties accept that the Monitors have the right to access all the documents relating to the project/procurement, including minutes of meetings
- 6.5. As soon as the Monitor notices, or have reasons to believe, a violation of this Pact, they shall so inform the Chairman, NDMC.
- 6.6. The Bidder(s) accepts that the Monitor has the right to access without restriction to all Project documentation of NDMC including that provided by the Bidder. The Bidder will also grant the Monitor, upon his request and demonstration of a valid interest, unrestricted and unconditional access to his project documentation. The same is applicable to Subcontractors. The Monitor shall be under contractual obligation to treat the information and documents of the Bidder/ Subcontractor(s) with confidentiality. In case of sub-contracting, the Bidder shall take the responsibility of the adoption of Integrity Pact by the sub-contractor.
- 6.7. NDMC will provide to the Monitor sufficient information about all meetings among the parties related to the Project provided such meetings could have an impact on the

contractual relations between the parties. The parties will offer to the Monitor the option to participate in such meetings.

- 6.8. The Monitor will submit a written report to the Chairman, NDMC within 8 to 10 weeks from the date of reference or intimation to him/her by the NDMC / Bidder and, should the occasion arise, submit proposals for correcting problematic situation.
- 6.9. The Bidder shall not approach the Courts while representing the matters to Monitors and will await their decision.

**7. Facilitation of Investigation**

In case of any allegation of violation of any provisions of this pact or payment of commission, NDMC or its agencies shall be entitled to examine all the documents including the Books of Accounts of the Bidder and the Bidder shall provide necessary information and documents in English and shall extend all possible help for the purpose of such examination.

**8. Law and Place of Jurisdiction**

This pact is subject to Indian Law. The place of performance and jurisdiction is the seat of NDMC.

**9. Other Legal Actions**

The action stipulated in this Integrity Pact are without prejudice to any other legal action that may follow in accordance with the provisions of the extant law in force relating to any civil or criminal proceedings.

**10. Validity**

- 10.1. The validity of this Integrity Pact shall be from date of its signing and extend upto 5 years or the complete execution of the contract to the satisfaction of both NDMC and the Bidder, including warranty period, whichever is later. In case Bidder is unsuccessful, this Integrity Pact shall expire after six months from the date of the signing of the contract.
- 10.2. Should one or several provision of this Pact turn out to be invalid, the remainder of this Pact shall remain valid. In this case, the parties will strive to come to an agreement to their original intention.

The parties hereby sign this Integrity Pact at \_\_\_\_\_ on \_\_\_\_\_

**Bidder**  
[name and designation of Authorized Signatory]

**New Delhi Municipal Council**  
Shri Y.V.V.J Rajasekhar,  
Director (Estate-I)

Witness

Witness

1.....

1.....

2.....

2.....

Witness

Witness

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

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

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

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



## ANNEXURE IX - PARTICULARS OF THE PROPERTY

1. The Property is located on Plot No. 1, Man Singh Road, New Delhi – 110011. The Property is well connected to the nearest airport, railway station and bus terminus. Motilal Nehru Marg runs along the south western side of the plot while the Man Singh Road lies on the East.
2. A building exists on the plot, construction of which was completed around 1978. The building is a Reinforced Cement Concrete (RCC) structure and consists of thirteen floors, two roof top restaurant areas and two basement levels and one mezzanine area.
3. The plot area is 3.78 acres. The building has a total built up area of 2,45,884.79 square feet including the terrace and basement. Floor wise breakup of built-up area is provided in the table below along with the floor wise usage:

Description	Value (square feet)
Built-up area of lower basement	27,861.00
Built-up area of upper basement	49,692.50
Built-up area of ground floor	34,312.50
Built-up area of entrance lobby floor	31,491.69
Built-up area of mezzanine above entrance lobby floor	10,473.65
Built-up area of 1st floor	13,606.15
Built-up area of 2 <sup>nd</sup> floor	13,606.15
Built-up area of 3 <sup>rd</sup> floor	13,606.15
Built-up area of 4 <sup>th</sup> floor	13,606.15
Built-up area of 5 <sup>th</sup> floor	13,606.15
Built-up area of 6 <sup>th</sup> floor	13,606.15
Built-up area of 7 <sup>th</sup> floor	13,606.15
Built-up area of 8 <sup>th</sup> floor	13,606.15
Built-up area of 9 <sup>th</sup> floor	13,606.15
Built-up area of 10 <sup>th</sup> floor	13,606.15
Built-up area of 11 <sup>th</sup> floor	13,606.15
Built-up area of lower level roof top restaurant floor	14,044.90
Built-up area of upper level roof top restaurant floor including additional area of loft	5,894.40
<b>Built-up Area</b>	<b>2,45,884.79</b>

4. There is an 11 KV HT connection at the Property. Supply is run through two 11 KV cables of 300 sq. mm. 3C PILCA from S/S Nirman Bhawan, S/S Vidyut Bhawan. The existing sanctioned load is around 3,880 KVA and could be expanded to 4,000 KVA to accommodate future requirements.
5. Bidders who have registered on the e-auction portal can obtain copies of the layout plans of the Property by sending an email request (as per the format provided in **Annexure XV**)

to [director.estate@ndmc.gov.in](mailto:director.estate@ndmc.gov.in), and [secretary@ndmc.gov.in](mailto:secretary@ndmc.gov.in) with a copy to [ndmc.auction@sbicaps.com](mailto:ndmc.auction@sbicaps.com) and collecting the copy of the same from the office of the Chief Architect, NDMC. Bidders should send in their emails by 14:00 hours (Indian Standard Time) of Monday, July 02, 2018.

6. Other details of the property are as below:

Description	Value
Built-up Area	2,45,884.79 square feet
Rooms	The present licensee is operating 292 rooms
Bars, banquets and restaurants	The present licensee is operating 7 F&B outlets and six meeting rooms with flexible capacity.
Swimming Pool and Spa	Yes
Parking	Open parking space

7. The following is an indicative list of assets that will be available to the Successful Bidder (the same may change at the time of final handover of the Property)

- a) Complete building as per the layout plans provided
- b) Swimming Pool excluding the alteration plant
- c) Compound wall on the periphery of the plot
- d) Hot and cold water supply installations, both internal and external, excluding the water softening plant and booster pumps and deep tube well
- e) Sanitary and drainage installation both internal and external, including fittings and fixtures and sanitary works excluding drainage/sewerage pumps
- f) In-built fire detection/ fire fighting installations/ arrangements excluding fire pump and control room apparatus
- g) Electrical installations will include wirings for power lighting, telephones musical channels, standard functional, light fittings and fixtures in basement corridors; approach roads, compound lighting etc. and LT/HT connections but excluding diesel generating sets and decorative/ ornamental light fittings/ fixtures
- h) Heating, air-conditioning/ refrigeration; exhaust and ventilations instalments, fittings including ducting, piping, but excluding the air-conditioning/ refrigeration plant, cooling tower and boilers, both steam and hot water.

**The above will include any/ all items although not specifically mentioned but are composite and/ or internal part of the services built into the structure being of immovable nature but will exclude any/ all plant, equipment, machinery, inclusive of standby arrangements which may be termed as of movable nature, besides any/ remaining/ all items of work necessary for completion/ commissioning/ running of a hotel of a high international standard.**

## ANNEXURE X - DETAILS OF ELECTRONIC AUCTION PROCESS

A dedicated e-Bidding Portal has been created by MSTC at <http://www.mstcecommerce.com/auctionhome/ndmc/index.jsp>

The screenshot shows the MSTC Limited e-Auction portal. The main heading is "e-Auction of License Rights of Immovable Properties of NDMC". A banner image shows a building with the text "1 Man Singh Road". Below the banner, there are three main sections: "Details of the Properties", "Bulletin Board", and "Registration". The "Bulletin Board" section contains a blue announcement: "NDMC announces the launch of e-Auctions of license rights of an iconic 5-star hotel property situated at 1, Mansingh Road; another hotel property situated at 37, Shaheed Bhagat Singh Marg; and a tourist lodge situated at 1, Janpath Lane. All the three properties are located at the heart of New Delhi and have excellent connectivity to major demand centres and transportation hubs. Key details of the properties and e-auction process including the tender documents are available in the Details of the Properties links." The "Registration" section has fields for "User Name" (Enter UserId) and "Password" (Enter Password), with radio buttons for "Bidder", "Admin", and "Tendering Authority", and a "Login" button. The footer includes "Java Download", "Contact Us", "NDMC Website", and "Copyright © MSTC LIMITED 2017".

### Settings

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

**DO NOT DOWNLOAD the 64 Bit version**

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Oracle Technology Network > Java > Java SE > Downloads

Overview Downloads Documentation Community Technologies Training

### Java SE Runtime Environment 8 Downloads

Do you want to run Java™ programs, or do you want to develop Java programs? If you want to run Java programs, but not develop them, download the Java Runtime Environment, or JRE™.

If you want to develop applications for Java, download the Java Development Kit, or JDK™. The JDK includes the JRE, so you do not have to download both separately.

JRE 8u144 Checksum

#### Java SE Runtime Environment 8u144

You must accept the Oracle Binary Code License Agreement for Java SE to download this software.

Accept License Agreement  Decline License Agreement

Product / File Description	File Size	Download
Linux x86	59.13 MB	<a href="#">jre-8u144-linux-i586.rpm</a>
Linux x86	75.01 MB	<a href="#">jre-8u144-linux-i586.tar.gz</a>
Linux x64	56.48 MB	<a href="#">jre-8u144-linux-x64.rpm</a>
Linux x64	72.41 MB	<a href="#">jre-8u144-linux-x64.tar.gz</a>
Mac OS X	63.94 MB	<a href="#">jre-8u144-macosx-x64.dmg</a>
Mac OS X	55.56 MB	<a href="#">jre-8u144-macosx-x64.tar.gz</a>
Solaris SPARC 64-bit	52.12 MB	<a href="#">jre-8u144-solaris-sparcv9.tar.gz</a>
Solaris x64	49.95 MB	<a href="#">jre-8u144-solaris-x64.tar.gz</a>
Windows x86 Online	0.7 MB	<a href="#">jre-8u144-windows-i586-iftw.exe</a>
Windows x86 Offline	54.57 MB	<a href="#">jre-8u144-windows-i586.exe</a>
Windows x86	60.2 MB	<a href="#">jre-8u144-windows-i586.tar.gz</a>
Windows x64 Offline	62.34 MB	<a href="#">jre-8u144-windows-x64.exe</a>
Windows x64	63.99 MB	<a href="#">jre-8u144-windows-x64.tar.gz</a>

E-mail this page Printer View

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

Licensed CAs

 <p>Disclosure Record of Safescrypt CA</p>	 <p>Disclosure Record of iTrust CA (IDRBT)</p>	 <p>National Informatics Centre</p>
 <p>Disclosure Record of TCS CA</p>	 <p>Disclosure Record of (n)Code Solutions CA</p>	 <p>Disclosure Record of e-Mudhra CA</p>
 <p>Disclosure Record of CDAC CA</p>	 <p>Disclosure Record of Capricorn CA</p>	 <p>Disclosure Record of NSDL e-Gov CA</p>

## **Registration**

1. Any bidder interested in participation is required to go to the above mentioned portal and click on the Register here link.
2. On clicking the link a bidder will be prompted to select Register as a Bidder.
3. On the page that appears a KYC form will have to be filled by the bidder giving their details.

<b>Bidder's Registration Form</b>	
(All field's marked with * are mandatory)	
<b>Register Me As :(Select from drop Down list)</b>	
Registering for *:	License Rights of Properties
Company Name *:	<input type="text"/>
Name of Authorized Representative (Contact Person)*:	<input type="text"/>
Postal Address of Registered Office*:	<input type="text"/>
City*:	<input type="text"/>
Pin Code*:	<input type="text"/>
State / UT*:	=====select state===== ▼
Country*:	INDIA <input type="text"/>
Email address of Authorized Representative*:	<input type="text"/>
Phone Number *:	<input type="text"/>
PAN Number of Company*:	<input type="text"/> <a href="#">Click to check PAN</a>
GST Number of Company* :	<input type="text"/>
Preferred User ID* :	<input type="text"/> <a href="#">Click to check UserID</a>
Password* :	<input type="password"/>
Confirm Password* :	<input type="password"/>
Name of the Bank where Company has their account* :	<input type="text"/>
Account Number of Company* :	<input type="text"/>
Branch Address*:	<input type="text"/>

4. Once the form is filled up, the bidder is required to click on the submit button to submit the form.
5. Once the form is submitted the bidder will receive an email on their registered email address, prompting them to submit KYC documents in MSTC e-Mail.

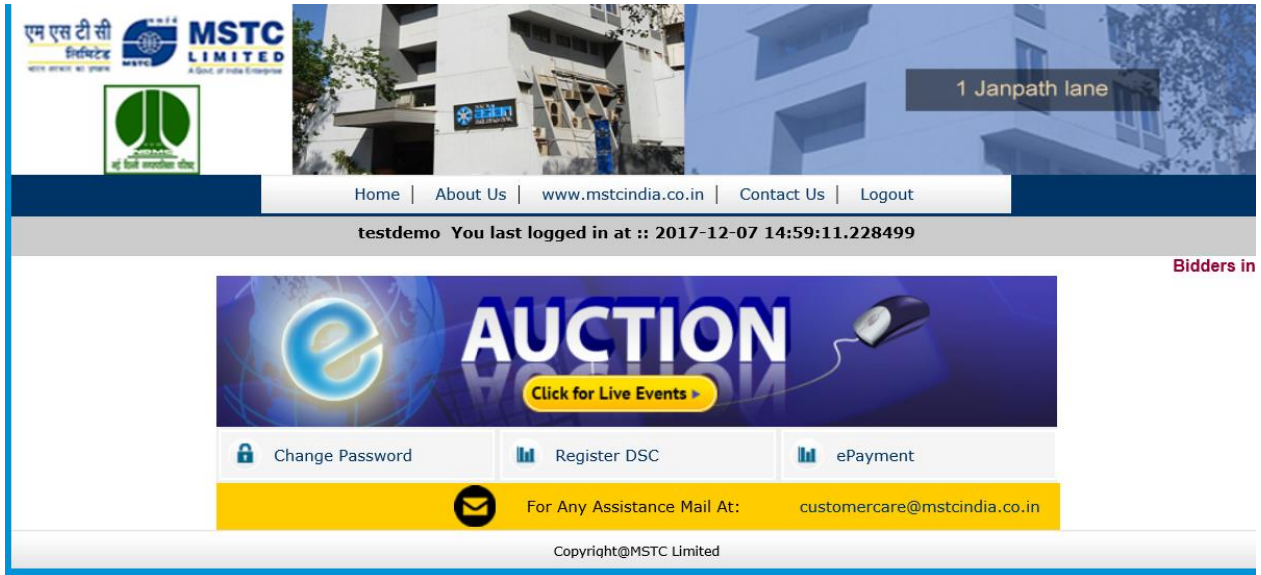
The following documents will have to be submitted:

- Scan copy of the PAN Card of the Company
- Scan copy of the PAN Card of the authorized representative of the Company that is registering as a Bidder.
- Scan copy of the email confirmation letter received from MSTC after successful completion of on-line registration and containing bidder registration details of the bidder.
- RTGS Mandate Form

- Once the documents and fee is are submitted with MSTC, the bidder's account will be activated in two working days from receipt of the documents.

### Submission of Fees through e-Payment

- After the account has been activated, a bidder has to login in the portal with their username and password.
- After the login the bidder will see an option for e-Payment.



- The bidder has to click on e-Payment, select the event number.

**e-Payment**

Select an Auction :	Select Auction
Payment Type :	Select Payment Type

- Select the auction from the drop down, select the payment type, the amount will be displayed. The bidder can pay the amount using Net Banking or RTGS/NEFT. **If paying through Net banking, please ensure that address on the top of the browser has https.** i.e. <https://www.mstcecommerce.com>

**e-Payment**

Select an Auction :	MSTC/HO/MLCL TEST BANGALORE/57/BANGALORE/17-18/826 [21183]
Payment Type :	Tender Document Fee
	Bid Security : 00
	<input type="button" value="Netbanking"/> <input type="button" value="RTGS/NEFT"/>

**(Note:** The above screenshot is from the demo auction portal, the actual portal will reflect the Tender Document Number as mentioned in the cover page of the Tender Document. The Bidder will have to select the appropriate auction accordingly)

- The Bidders are required to make separate payments for Tender Fee and Bid Security as per the Tender Document.
- It may be noted that In case the bidder makes a common payment the same may not be authorized by the system and will only be refunded after the completion of tender and auction. (In such cases the bidder may be required to make the payment twice for getting access.)

### Submission of Bids

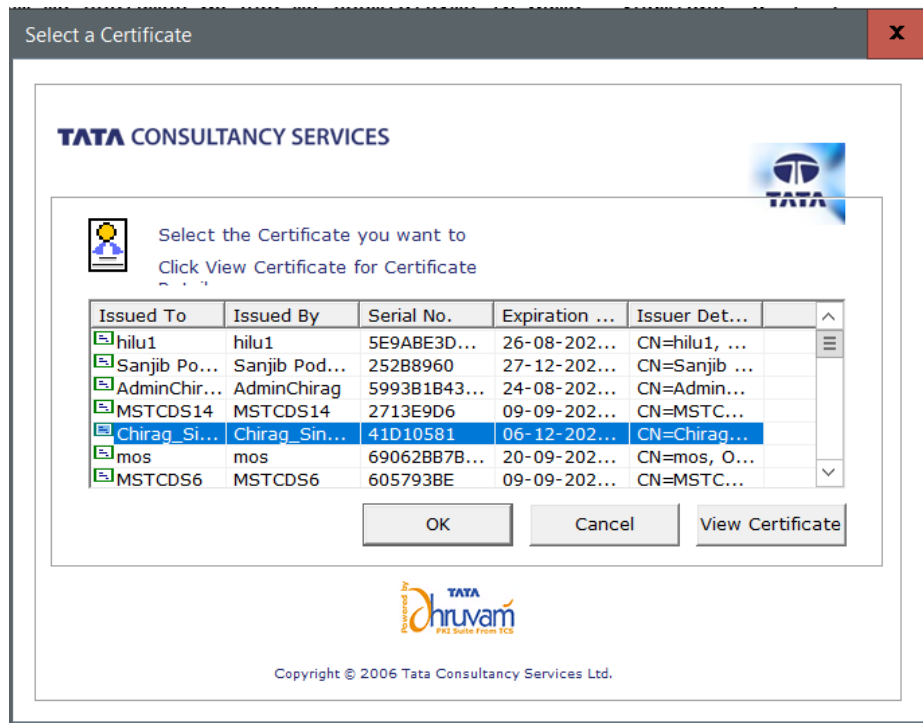
- To submit a bid, the bidder must register Digital Signature. To register DSC click on Register DSC.

**Register/Verify your Digital Certificate**

I WANT TO REGISTER MY DSC TO PERTICIPATE IN MSTC e-AUCTIONS Contact  
 Person :chirag  
 eMail :chiragsindhu@mstcindia.co.in  
 Tele :1111111111  
 Mobile :-  
 PAN :DDNPS2323N  
 PrincipalId :

Click to Register/Verify your digital certificate

On the box that appears, select the Digital Signature and press OK.



- Then bidder has to click on “Click for Live Events” button on the home page.



- For participating in Tender a bidder can to select “**Stage I Bid Submission**” , while to participate in Forward Auction a bidder has to click on “**Forward Auction**” as shown below



- On clicking the “**Stage I Bid Submission**”, the auction number will be displayed. Click on the Auction number to proceed to tender submission Screen.



(**Note:** The above screenshot is from the demo auction portal, the actual portal will reflect the Tender Document Number as mentioned in the cover page of the respective Tender Document. The Bidder will have to select the appropriate auction accordingly)

- In the tender submission screen Bidder will see Accept Terms & Conditions, Accept Eligibility Terms & Conditions, Initial Price Offer and Attach documents



Hi test **EVENT INFO** [Back](#)

**Event Details** Current Server Time: 7.12.2017 15:40:39 IST

Event No	Event Type	Event Start Time	Event Close Time	Currency
MSTC/HO/MLCL TEST BANGALORE/61/BANGALORE/17-18/847	Stage I Technical-cum-IPO Submission	07.12.2017 14:37:00	30.12.2017 14:30:00	INR

Accept Terms & Conditions Attach Docs

No	Name	Technical Bid	Initial Price Offer	Final Submission	Withdraw Bid	Delete Bid	Bid Status
1	1 Man Singh Road	Agree Eligibility Terms & Conditions	Initial Price Offer	Final Submission	Withdraw Bid	Delete Bid	Initial Price Offer Saved

6. The first step towards submitting the bid is Accept Terms & Conditions on the left side. Click on Accept Terms & Conditions and fill the form given therein. Conditions with agree have to be necessarily agreed to. .

Bidder Specifications		Response
<input checked="" type="checkbox"/> 1.1 TERMS AND CONDITIONS		
1	I/We irrevocably accept all Terms and Conditions of the tender document and shall upload and furnish the documents as stipulated in the Tender Document.	AGREE

Save

7. After the Accept Terms & Conditions are saved, click on attach documents on the top. Here the system will ask the bidder to select if the bidder will bid as a standalone entity, with one Subsidiary or by partnering with one Hotel Brand Owner. Double click to select.

New Document -- Webpage Dialog

Double Click On Your Choice

Bidder as a standalone entity	<input type="radio"/>
Bidder with one Subsidiary	<input type="radio"/>
Bidder partnering with one Hotel Brand Owner	<input type="radio"/>

8. Once the bidder selects from above, they will be required to upload documents for the said tender. A list of previously uploaded files will be visible at the bottom of the screen. To revise a document please select the same from the dropdown and upload the new document. Bidders can upload one document against each selection, document can be of any size. Only PDF documents can be uploaded.

To replace any mandatory document uploaded incorrectly, please upload a new document by selecting the said document name from the document name drop-down

Your file Uploaded Successfully : 1

**Name : Bid Letter - As per format provided in Annexure III of the Tender Document**  
**File Size : 6509 bytes.**  
**File Type : application/pdf**  
**From IP : 106.210.48.198**

**UPLOAD DOCUMENTS**

**Document Type:**

**Browse for File To Upload:**

---

**File List - Click To download File**

<b>Bid Letter (As per Annexure III)</b>	<input type="button" value="Download"/>
---	---

- After the documents have been uploaded, the bidder can proceed to saving the Accept Eligibility Terms & Conditions and Initial Price Offer fields. To fill Accept Eligibility Terms & Conditions form, click on Accept Eligibility Terms & Conditions and agree to the terms and conditions.

Hi chiragdemo

**Event Details** **Server Time :**  
2018/4/20 11:2:44

Event No.	Event Type	Event Start Date	Event Close Date	Currency
MSTC/NRO/NDMC / 6/delhi/ 18-19/61	Stage I Technical-cum-IPO Submission	20.04.2018 11:00:00	2018-04-23 10:30:00.0	


**❗ (PLEASE ENTER ALL VALUES AND CLICK ON SAVE BUTTON TO SAVE YOUR QUOTE) ❗**

**Name of Contract :** As per the Tender Document for the Property on 1, Man Singh Road, New Delhi -

**1.1 ELIGIBILITY TERMS AND CONDITIONS**

1	I/We are bidding as a Bidder along with one Subsidiary	<input type="button" value="AGREE"/>
2	I/We irrevocably accept all Terms and Conditions of the Tender Document, and confirm that I/We meet all the eligibility conditions as per Clause 3 of Tender Document, and shall upload and furnish the documents as stipulated in the Tender Document.	<input type="button" value="AGREE"/>


- Once Accept Eligibility Terms & Conditions terms are saved, proceed with submitting the Initial Price Offer, here the bidder has to input the percentage of Gross Revenue as per the tender terms and conditions.

Initial Price Offer	
PLEASE ENTER ALL VALUES AND CLICK ON SAVE BUTTON TO SAVE YOUR QUOTE	
As per Tender Document	
Please quote Initial Price Offer as % of Gross Revenue (The Minimum Revenue Share as per the Tender Document is 17.25%)	<input type="text" value="0.00"/>
Initial Price Offer :	
	

11. After the documents have been uploaded, click on “**Final Submission**” to finally submit the bid. In case of any amendments after final submission, click on “**Delete Bid**” button to delete the Accept Eligibility Terms & Conditions and price bids and resubmit the same. **Please note that at the end the bid must be final submit, otherwise the same will not be considered.**

**e- Auction:**

12. The Financial Bid will comprise of two rounds. In the first round, the total Initial Price Offer (submitted online along with the Technical Bid) of the Technically Qualified Bidders shall be opened and total Initial Price Offer shall be ranked on the basis of ascending order for determination of the H-1 bid. This H-1 Bid shall become the floor price for start of e-auction. The Qualified Bidders shall be permitted to place their Price Bid on the electronic bidding platform in increments of 0.1% of prevailing H-1 Bid. The initial period for conducting e-auction shall be 240 minutes which will be extended with Auto extension of 8 minutes every time a bid is received 8 minutes before closing time.

Current Time : 2017/9/16 12:22:1							
Auction No		MSTC/HO/MLCL TEST BANGALORE/34/BANGALORE/17-18/502					
Opening Date & Time		16-09-2017::11:50:00					
Closing Date		18-09-2017					
SL.No							
Sl.No	Lot Name	Close Time	Start Price *	Last Bid *	Your Bid in Percent%	Bid	Bid Info
Hide SL.No. 01 							
01	Hotel at 1 Man Singh Road	18-09-2017 14:30:00	18.00	18.00	<input type="text"/>	<input type="button" value="Bid"/>	<b>Bid History</b> <input type="button" value="HI Check"/>

**ANNEXURE XI - FORMAT OF CERTIFICATE TO BE PROVIDED BY  
STATUTORY AUDITOR OF BIDDER**

(To be provided by the statutory auditor of the Bidder, when the bidder itself meets the eligibility criteria)

To

**The Director (Estate – I)**

New Delhi Municipal Council

Palika Kendra

Parliament Street

New Delhi – 110 001

**Sub: Certification of Details of [insert name of Bidder]**

Ref: Tender Document dated [insert date] issued by NDMC on [insert date] ("**Tender Document**")

Dear Sir,

With reference to your Tender Document dated [insert date], we, [insert name of statutory auditor], the statutory auditor of [insert name of Bidder], after having examined the Tender Document/ relevant portions of the Tender Document and understood their contents, hereby certify the following:

1. We are the statutory auditor of [insert name of Bidder] as of the date of this certificate. Copy of our engagement letter/ appointment letter is enclosed as evidence of the same.
2. [insert name of Bidder] has an average standalone Turnover of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in the Financial Years [insert Financial Year no.], [insert Financial Year no.] and [insert Financial Year no.] as per the definition of Turnover mentioned in the Tender Document as provided in the table below:

<i>(Figures in Rs.)</i>			
Financial Year	[insert FY]	[insert FY]	[insert FY]
Standalone Turnover from hotels and resorts <i>(as per the annual standalone audited financial statements)</i>			
<b>Average Turnover</b>			

3. [insert name of Bidder] has a standalone Net Worth of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in FY [insert Financial Year no.], as

per the definition of Net Worth mentioned in the Tender Document as provided in the table below:

Description	Formula	Value (in Rs.)
Add: Subscribed and Paid Up Equity	A	
Add: Reserves	B	
Less: Revaluation Reserves	C	
Less: Miscellaneous expenditure not written off	D	
Less: Reserves not available for distribution to equity shareholders	E	
Less: Intangibles	F	
<b>Net Worth</b>	<b>G = A + B – C – D – E – F</b>	

4. We confirm that as of the date of submission of the Technical Bid, [insert name of the Bidder]'s standalone annual audited financial statements for the Financial Year 2017-18 have not been finalized. [To delete if not applicable]

Copies of audited financial statements for FY [insert Financial Year no], FY [insert Financial Year no] and FY [insert Financial Year no] are enclosed.

We certify that the above are true and accurate.

Authorised Signatory  
(Statutory Auditor of the Bidder)

**ANNEXURE X II - FORMAT OF CERTIFICATE TO BE PROVIDED BY  
STATUTORY AUDITOR OF BIDDER**

*(To be provided only when the Bidder uses a Subsidiary's credentials to meet the eligibility criteria.  
To be modified in the light of the specific eligibility conditions for which the experience of the  
Subsidiary is being used.)*

To

**The Director (Estate – I)**

New Delhi Municipal Council

Palika Kendra

Parliament Street

New Delhi – 110 001

**Sub: Confirmation of details of [insert name of Bidder] and details of [insert name of Subsidiary], which is a Subsidiary of [insert name of Bidder]**

Ref: Tender Document dated [insert date] issued by NDMC on [insert date] ("**Tender Document**")

Dear Sir,

With reference to your Tender Document dated [insert date], we, [insert name of statutory auditor], the statutory auditor of [insert name of Bidder], after having examined the Tender Document/ relevant portions of the Tender Document and understood their contents, hereby certify the following:

1. We are the Statutory Auditor of [insert name of Bidder] as of the date of this certificate. Copy of our engagement letter/ appointment letter is enclosed as evidence of the same.
2. [insert name of Bidder], for the purpose of submitting a Bid under the Tender Document proposes to utilize the experience, Turnover and Net Worth of [insert name of the Subsidiary] in addition to its own experience, Turnover and Net Worth.
3. We confirm that [insert name of the Subsidiary] is a Subsidiary of [insert name of Bidder] as per the definition of Subsidiary provided in the Tender Document. We further confirm that that [insert name of the Subsidiary] was a Subsidiary of the Bidder prior to the date of publication of the Notice Inviting Tender. Proof of shareholding of the Bidder in the Subsidiary is provided along with this certificate along with the necessary proofs that establishes that [insert name of the Subsidiary] was a Subsidiary of the Bidder prior to the date of publication of the Notice Inviting Tender.
4. [insert name of Bidder] has an average standalone Turnover of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in the Financial Years [insert

Financial Year no.], [insert Financial Year no.] and [insert Financial Year no.] as per the definition of Turnover mentioned in the Tender Document as provided in the table below along with the [insert name of Bidder]'s standalone Turnover in each of the above mentioned Financial Years :

<i>(Figures in Rs.)</i>			
<b>Financial Year</b>	<b>[insert FY]</b>	<b>[insert FY]</b>	<b>[insert FY]</b>
Turnover from hotels and resorts <i>(as per the annual standalone audited financial statements)</i>			
<b>Average Turnover</b>			

5. The statutory auditor of [insert name of the Subsidiary] has confirmed that [insert name of the Subsidiary]'s standalone Turnover in the Financial Years [insert Financial Year no.], [insert Financial Year no.] and [insert Financial Year no.] as per the definition of Turnover mentioned in the Tender Document is as provided in the table below:

<i>(Figures in Rs.)</i>			
<b>Financial Year</b>	<b>[insert FY]</b>	<b>[insert FY]</b>	<b>[insert FY]</b>
Turnover from hotels and resorts <i>(as per the annual standalone audited financial statements)</i>			

6. Combined average Turnover of [insert name of Bidder] and [insert name of Subsidiary] in the Financial Years [insert Financial Year no.], [insert Financial Year no.] and [insert Financial Year no.] is Rs. [insert amount in numbers] (Rupees [insert amount in words] only). Details are provided below:

<i>(Figures in Rs.)</i>				
<b>Financial Year</b>	<b>Formula</b>	<b>[insert FY]</b>	<b>[insert FY]</b>	<b>[insert FY]</b>
Turnover from hotels and resorts of the Bidder <i>(as per the annual standalone audited financial statements)</i>	A			
Turnover from hotels and resorts of the Subsidiary <i>(as per the annual standalone audited financial statements)</i>	B			
Bidder's percentage shareholding in the Subsidiary <i>(on a fully diluted basis)</i>	C			
Combined Turnover from hotels and resorts	$D = A + (B \times C)$			
<b>Average Turnover</b>				

7. [insert name of Bidder] has a Net Worth of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in FY [insert Financial Year no.], as per the definition of Net Worth mentioned in the Tender Document as provided in the table below:

Description	Formula	Value (in Rs.)
Add: Subscribed and Paid Up Equity	A	
Add: Reserves	B	
Less: Revaluation Reserves	C	
Less: Miscellaneous expenditure not written off	D	
Less: Reserves not available for distribution to equity shareholders	E	
Less: Intangibles	F	
<b>Net Worth</b>	<b>G = A + B - C - D - E - F</b>	

8. The statutory auditor of [insert name of the Subsidiary] has confirmed that [insert name of Subsidiary] has a Net Worth of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in FY [insert Financial Year no.], as per the definition of Net Worth mentioned in the Tender Document as provided in the table below:

Description	Formula	Value (in Rs.)
Add: Subscribed and Paid Up Equity	A	
Add: Reserves	B	
Less: Revaluation Reserves	C	
Less: Miscellaneous expenditure not written off	D	
Less: Reserves not available for distribution to equity shareholders	E	
Less: Intangibles	F	
<b>Net Worth</b>	<b>G = A + B - C - D - E - F</b>	

9. Combined Net Worth of [insert name of Bidder] and [insert name of Subsidiary] in the Financial Years [insert Financial Year no.] is Rs. [insert amount in numbers] (Rupees [insert amount in words] only). Details are provided below:

Financial Year	Formula	[insert FY]
Net Worth of the Bidder (as per the annual standalone audited financial statements)	A	
Net Worth of the Subsidiary (as per the annual standalone audited financial statements)	B	
Bidder's percentage shareholding in the Subsidiary (on a fully diluted basis)	C	
Bidders investment in the Subsidiary (at cost) (as per the annual standalone audited financial statements)	D	
<b>Combined Net Worth</b>	<b>E = A + (B x C) - D</b>	

10. We confirm that as of the date of submission of the Technical Bid, [insert name of the Bidder]'s and [insert name of the Bidder's subsidiary]'s standalone annual



audited financial statements for the Financial Year 2017-18 have not been finalized.  
[To delete if not applicable]

Copies of audited financial statements for FY [insert Financial Year no], FY [insert  
Financial year no] and FY [insert Financial Year no] are enclosed.

We certify that the above are true and accurate.

Authorised Signatory  
(Statutory Auditor of the Bidder)

### **ANNEXURE XIII - FORMAT OF UNDERTAKING FROM THE SUBSIDIARY**

*(To be provided only when the Bidder uses a Subsidiary's credentials to meet the eligibility criteria and to be amended as per the specific credentials being used)*

*(to be executed on the Subsidiary's letterhead)*

To

**The Director (Estate – I)**

New Delhi Municipal Council

Palika Kendra

Parliament Street

New Delhi – 110 001

**Sub: Undertaking from the [insert name of the Subsidiary] as a Subsidiary of [insert name of Bidder]**

Ref: Tender Document No.[insert tender document no] dated [insert date] issued by NDMC ("**Tender Document**")

Dear Sir,

With reference to your Tender Document dated [insert date], we, [insert name of the Subsidiary], (hereinafter referred to as the "**Subsidiary**" which expression shall unless it be repugnant to the subject or context thereof include its executors, administrators, successors and assigns), understand that for the purpose of submitting a Bid under the Tender Document [insert name of Bidder] proposes to utilize our experience, Turnover and Net Worth. In connection to the same, we, after having examined the Tender Document/ relevant portions of the Tender Document and understood their contents, hereby certify the following:

1. We confirm that we are a Subsidiary of [insert name of Bidder] as per the definition of Subsidiary provided in the Tender Document. Proof of shareholding of the Bidder in the Subsidiary is provided along with this certificate.
2. We continue [own (freehold) or hold (under a lease or licence) and operates under our own or the Bidder's Brands(s)/ operate under our own or the Bidder's Brand(s)], continuously for a period of at least five (5) continuous years prior to [insert date of submission of Technical Bid] the following hotel/ resort properties:

Sl. No	Name of Property, Location and Brand Name	Star Rating	Mode of Operation [Own and Operate/ Operate]	Mode of Ownership (Freehold/ Leasehold/ Licence hold/ Not Applicable)	No. of Operating Rooms
1.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	

Sl. No	Name of Property, Location and Brand Name	Star Rating	Mode of Operation [Own and Operate/ Operate]	Mode of Ownership (Freehold/ Leasehold/ Licence hold/ Not Applicable)	No. of Operating Rooms
2.			[Own and Operate/ Operate]	(Freehold/ Leasehold/ Licence hold/ Not Applicable)	

Copies of star rating classification proof, as issued by Ministry of Tourism, Government of India, in relation to the aforesaid properties are enclosed.

A legal opinion, as procured by us, from an independent legal counsel is enclosed confirming that we are the owner of the Brand(s) mentioned above.

3. [intentionally left blank] Our standalone Turnover in FY [insert Financial Year no], FY [insert Financial Year no] and FY [insert Financial Year no], as per the definition of Turnover mentioned in the Tender Document is as provided in the table below:

<i>(Figures in Rs.)</i>			
Financial Year	[insert FY]	[insert FY]	[insert FY]
Turnover from hotels and resorts <i>(as per the annual standalone audited financial statements)</i>			

4. [intentionally left blank] Our Net Worth has been Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in FY [insert Financial Year no], as per the definition of Net Worth mentioned in the Tender Document as provided in the table below:

Description	Formula	Value (in Rs.)
Add: Subscribed and Paid Up Equity	A	
Add: Reserves	B	
Less: Revaluation Reserves	C	
Less: Miscellaneous expenditure not written off	D	
Less: Reserves not available for distribution to equity shareholders	E	
Less: Intangibles	F	
<b>Net Worth</b>	<b>G = A + B – C – D – E – F</b>	

Copies of audited financial statements for FY [insert Financial Year no], FY [insert Financial Year no] and FY [insert Financial Year no] are enclosed.

5. We confirm that as of the date of submission of the Technical Bid, our standalone annual audited financial statements for the Financial Year 2017-18 have not been finalized. [To delete if not applicable]

6. We have no objection to [insert name of Bidder] using our credentials as provided above for the purpose of participating in the auction of the Licensed Premises.
7. We confirm that we will continue to remain a Subsidiary of [insert name of Bidder] till the seventh (7<sup>th</sup>) anniversary of the Effective Date.

We certify that the above are true and accurate.

Authorised Signatory of the Subsidiary

**ANNEXURE XIV - FORMAT OF CERTIFICATE TO BE PROVIDED BY  
STATUTORY AUDITOR OF BIDDER'S SUBSIDIARY**

*(To be provided only when the Bidder uses a Subsidiary's credentials to meet the eligibility criteria  
and to be amended as per the specific credentials being used)*

To,  
**The Director (Estate – I)**  
New Delhi Municipal Council  
Palika Kendra  
Parliament Street  
New Delhi – 110 001

**Sub: Certification of Details of [insert name of Subsidiary]**

Ref: Tender Document No. [insert tender document no.] dated [insert date] issued by  
NDMC on [insert date] ("**Tender Document**")

Dear Sir,

With reference to your Tender Document dated [insert date], we, [insert name of statutory auditor], the statutory auditor of [insert name of Subsidiary], after having examined the Tender Document/ relevant portions of the Tender Document and understood their contents, hereby certify the following:

1. We are the Statutory Auditor of the [insert name of Subsidiary] as of the date of this certificate. Copy of our engagement letter/ appointment letter is enclosed as evidence of the same.
2. [insert name of Subsidiary] is a Subsidiary of [insert name of Bidder] as per the definition of Subsidiary provided in the Tender Document. Proof of shareholding of the Bidder in the Subsidiary is provided along with this certificate.
3. [intentionally left blank] [insert name of Subsidiary]'s standalone Turnover in FY [insert Financial Year no], FY [insert Financial Year no] and FY [insert Financial Year no], as per the definition of Turnover mentioned in the Tender Document is as provided in the table below:

<i>(Figures in Rs.)</i>			
<b>Financial Year</b>	<b>2014-15</b>	<b>2015-16</b>	<b>2016-17</b>
Turnover from hotels and resorts <i>(as per the annual standalone audited financial statements)</i>			

4. [intentionally left blank] [insert name of Subsidiary] has a Net Worth of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in FY [insert Financial Year no], as per the definition of Net Worth mentioned in the Tender Document as provided in the table below:

Description	Formula	Value (in Rs.)
Add: Subscribed and Paid Up Equity	A	
Add: Reserves	B	
Less: Revaluation Reserves	C	
Less: Miscellaneous expenditure not written off	D	
Less: Reserves not available for distribution to equity shareholders	E	
Less: Intangibles	F	
<b>Net Worth</b>	<b>G = A + B – C – D – E – F</b>	

5. We confirm that as of the date of submission of the Technical Bid, [insert name of the Bidder's subsidiary]'s standalone annual audited financial statements for the Financial Year 2017-18 have not been finalized. [To delete if not applicable]

Copies of audited financial statements for in FY [insert Financial Year no], FY [insert Financial Year no] and FY [insert Financial Year no], are enclosed.

We certify that the above are true and accurate.

Authorised Signatory  
(Statutory Auditor of the Subsidiary)

**ANNEXURE XV - FORMAT OF EMAIL FOR REQUESTING LAYOUT PLANS**

*(To be sent from the registered email ids of bidders)*

**Sub: Request for site layout plans for Property at 1, Man Singh Road, New Delhi - 110011**

Dear Sir,

We intend to participate in the e-auction of the licence rights for the Property at 1, Man Singh Road, New Delhi – 110011 and we qualify the eligibility criteria as laid out in the Tender Document [insert tender document number]. Our details are as under:

<b>Name of Bidder</b>	[insert name]
<b>CIN of the Bidder</b>	[insert CIN No]

For the purpose of participating in the e-auction process, we would require copies of the layout plans of the Property.

We understand that the layout plans are confidential in nature and we undertake to use them only for the purpose of preparing our Bids and participating in the e-auction process, and not for any other purpose.

We agree not to disclose or communicate or disseminate the layout plans to any person, except to those Directors, employees or Subsidiary of ours who need to receive the same for the purposes of preparation of the Bid.

We further undertake that in the event of:

1. Our non-participation in the bid;
2. We not qualifying as Technically Qualified Bidders or Qualified Bidders;
3. We not emerging as the Successful Bidders;
4. Our failure to execute the Leave and Licence Agreement, within the stipulated timeframe if we are declared as the Successful Bidder;
5. Annulment of the auction process

we shall destroy the layout plans including copies, or reproductions made of such layout plans, within 10 (ten) days of declaration of the Successful Bidder or annulment of the auction process and provide a written certificate to NDMC regarding such destruction.

The following personnel will visit the office of the Chief Architect (NDMC) on the date specified by you to collect the layout plans:

1. [Insert name of personnel along with his/her designation and details of identity proof (Aadhar card/ Passport/ PAN card or any other identity document issued by Government of India etc.)]

Authorised Signatory of the Bidder

**ANNEXURE XVI - JOINT UNDERTAKING BY BIDDER AND HOTEL BRAND OWNER**

[On a stamp paper of adequate value]

To

**The Director (Estate – I)**  
New Delhi Municipal Council  
Palika Kendra  
Parliament Street  
New Delhi – 110 001

Date: [insert date]

**Sub: Joint undertaking from the [insert name of the Bidder] and [insert name of the Hotel Brand Owner]**

Ref: Tender Document No.[insert tender document no] dated [insert date] issued by NDMC ("**Tender Document**")

Dear Sir,

1. Pursuant to the Tender Document, [insert name of the Bidder], having its registered office at [●] (hereinafter referred to as the "**Bidder**"), intends to submit a bid.
2. The Bidder desires to partner with [insert name of the Hotel Brand Owner], having its registered office at [●] (hereinafter referred to as the "**Hotel Brand Owner**"), to satisfy the eligibility criteria set forth in Clause 3.1.2 of the Tender Document, and the Hotel Brand Owner consent to such partnership.
3. The Bidder and the Hotel Brand Owner represent and confirm to NDMC the following:
  - (a) the Bidder and the Hotel Brand Owner do not have any Conflict of Interest under the provisions of the Tender Document;
  - (b) the Hotel Brand Owner owns the Brand, [insert name of the Brand], registered as a trademark under the laws of [insert name of the country where the Brand is registered]. A

A legal opinion, as procured by [insert name of the Hotel Brand Owner], from an independent legal counsel is enclosed confirming that [insert name of the Hotel Brand Owner] is the owner of the Brand(s) mentioned above.

- (c) the Hotel Brand Owner satisfies the minimum eligibility criteria under the Tender Document, the details of the same are set out below:



S No.	Name of the hotel/resort and Brand Name	Address of the hotel/resort	Number of operational rooms
1.			
2.			
3.			
4.			
5.			

A copy of the certificate(s) evidencing the 5 star rating of the aforesaid hotel(s)/resort(s) as issued by the Ministry of Tourism, Government of India, is enclosed in relation to demonstrating our aforesaid credentials<sup>12</sup>:

4. The Bidder and the Hotel Brand Owner irrevocably and unconditionally undertake the following:
  - (a) The Bidder and the Hotel Brand Owner have reviewed and understood the provisions of the Tender Document and the Licence Deed;
  - (b) In the event that the Hotel Brand Owner has misrepresented any information provided in paragraph 3 above, the NDMC shall be entitled to disqualify the Bidder or terminate the Licence Deed as the case may be, and shall be entitled to appropriate the entire Bid Security, Upfront Fee and the Performance Security of the Bidder.
  - (c) In the event that the Bidder is declared as the successful bidder in the auction process under and in accordance with the Tender Document, the Bidder and the Hotel Brand Owner shall execute a Management Agreement (*as defined in the Licence Deed*) for a term of at least 10 (ten) years from the Effective Date (*as defined in the License Deed*), and submit to the NDMC, a copy of such duly executed Management Agreement, within five (5) months from the date of issuance of the Letter of Award.
  - (d) If the Bidder and the Hotel Brand Owner fail to, execute and submit to NDMC, a copy of such duly executed Management Agreement specified in paragraph 4 (c) above, the same shall be a breach of the terms of the Tender Document and Licence Deed, and the NDMC shall be entitled to disqualify the Bidder and shall be entitled to appropriate the entire Bid Security, Upfront Fee and the Performance Security of such Bidder. Further, the NDMC shall reserve and retain any other right under the Tender Document, the Licence Deed and Applicable Law.
5. Capitalized terms used and not defined herein shall, unless the context otherwise requires, have the meaning ascribed to such terms under the Tender Document.

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<sup>12</sup> The Hotel Brand Owner is required to enclose these documents along with this undertaking.

For and on behalf of the Bidder<sup>13</sup>

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Name:

Designation:

For and on behalf of the Hotel Brand Owner

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Name:

Designation:

Enclosed: The Power of Attorney (in accordance with the format specified in **Annexure XVII** of the Tender Document) executed by the Hotel Brand Owner in favour of its authorized signatory for executing this Joint Undertaking.

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<sup>13</sup> The authorized signatory who is signing the letter bid letter (as provided in Annexure III of the Tender Document) shall be required to execute this undertaking for and on behalf of the Bidder.

**ANNEXURE XVII - POWER OF ATTORNEY FOR SIGNING THE JOINT UNDERTAKING**

Know all men by these presents, we, [*insert name of the Hotel Brand Owner*], having our registered office at [*insert address*] do hereby irrevocably constitute, nominate, appoint and authorize [*insert name*], son/daughter/wife of [*insert name*] and presently residing at [*insert address*], who is presently employed with us and holding the position of [*insert designation*], 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 the signing and submission of our joint undertaking as required under the Tender Document (*as defined hereinafter*) with [*insert name of Bidder*] in accordance with Tender Document No.[*insert tender document no*] dated [*insert date*] issued by New Delhi Municipal Council (“**Tender Document**”). The Attorney shall be authorized, for and on our behalf, for signing and submission of all applications, documents and writings, participate in bidders’ meetings and other conferences and providing information /responses to the Bidder and/or NDMC, representing us in all matters before the Bidder and/or NDMC, signing and execution of all undertakings, contracts and generally dealing with NDMC in all matters in connection with or relating to the bid.

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)

Accepted by:

(Signature)

(Name & Title)

Witnesses:

(Name, Title and Address)

1.

2.

Person identified by me/personally appeared before me/signed before  
me/Attested/Authenticated\*

(\*Notary to specify as applicable)

(Signature, Name and Address of the Notary)

Seal of the Notary

Registration Number of the Notary

Date:

Notes:

- *The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the executant(s) and when it is so required, the same should be under common seal affixed in accordance with the required procedure.*
- *The executant shall submit for verification, the relevant extract of the charter documents and/or documents such as a resolution of the board of the executant, for demonstrating that the person executing this Power of Attorney for and on behalf of the executant has been validly authorized by executant in this regard.*
- *Power of Attorney should be executed on a non-judicial stamp paper of appropriate value as relevant to the place of execution.*
- *For a Power of Attorney executed and issued overseas, the document will also have to be legalized by the Indian Embassy and notarized in the jurisdiction where the Power of Attorney is being issued. However, the Power of Attorney provided by Members from countries that have signed the Hague Legislation Convention 1961 are not required to be legalized by the Indian Embassy if it carries a conforming Apostille certificate.*

**ANNEXURE XVIII - FORMAT OF CERTIFICATE TO BE PROVIDED BY  
STATUTORY AUDITORS OF BIDDER**

(To be provided by the statutory auditor of the Bidder, when the bidder partners with a Hotel Brand  
Owner for the purpose of meeting the eligibility criteria)

To

**The Director (Estate – I)**

New Delhi Municipal Council

Palika Kendra

Parliament Street

New Delhi – 110 001

**Sub: Certification of Details of [insert name of Bidder]**

Ref: Tender Document dated [insert date] issued by NDMC on [insert date] ("**Tender Document**")

Dear Sir,

With reference to your Tender Document dated [insert date], we, [insert name of statutory auditor], the statutory auditor of [insert name of Bidder], after having examined the Tender Document/ relevant portions of the Tender Document and understood their contents, hereby certify the following:

1. We are the statutory auditor of [insert name of Bidder] as of the date of this certificate. Copy of our engagement letter/ appointment letter is enclosed as evidence of the same.
2. [insert name of Bidder] has an average Turnover of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in the Financial Years [insert Financial Year no.], [insert Financial Year no.] and [insert Financial Year no.] as per the definition of Turnover mentioned in the Tender Document as provided in the table below:

<i>(Figures in Rs.)</i>			
Financial Year	[insert FY]	[insert FY]	[insert FY]
Turnover from hotels and resorts <i>(as per the annual standalone audited financial statements)</i>			
<b>Average Turnover</b>			

3. [insert name of Bidder] has a Net Worth of Rs. [insert amount in numbers] (Rupees [insert amount in words] only) in FY [insert Financial Year no.], as per the definition of Net Worth mentioned in the Tender Document as provided in the table below:

<b>Description</b>	<b>Formula</b>	<b>Value (in Rs.)</b>
Add: Subscribed and Paid Up Equity	A	
Add: Reserves	B	
<i>Less: Revaluation Reserves</i>	C	
<i>Less: Miscellaneous expenditure not written off</i>	D	
<i>Less: Reserves not available for distribution to equity shareholders</i>	E	
<i>Less: Intangibles</i>	F	
<b>Net Worth</b>	<b>G = A + B – C – D – E – F</b>	

4. We confirm that as of the date of submission of the Technical Bid, [insert name of the Bidder]'s standalone annual audited financial statements for the Financial Year 2017-18 have not been finalized. [To delete if not applicable]

Copies of audited financial statements for FY [insert Financial Year no], FY [insert Financial Year no] and FY [insert Financial Year no] are enclosed.

We certify that the above are true and accurate.

Authorised Signatory

(Statutory Auditor of the Bidder)