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Request for Qualification

for

Development of Inter State Bus Terminal in Katra,  
Jammu & Kashmir on Turnkey Basis through  
Engineering, Procurement and Construction (EPC)  
Mode

(CEO/KDA/RFQ/2017-18/18)

KATRA DEVELOPMENT AUTHORITY (KDA)

Dated: 6<sup>th</sup> APRIL, 2017

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## **GLOSSARY**

Applicant(s)	As defined in Clause 1.2.1
Application	As defined in the Disclaimer
Application Due Date	As defined in Clause 1.1.5
Authority	As defined in Clause 1.1.1
Bids	As defined in Clause 1.2.3
Bid Price	As defined in Clause 1.2.8
Bid Due Date	As defined in Clause 1.2.3
Bid Security	As defined in Clause 1.2.4
Bidders	As defined in Clause 1.1.1
Bidding Documents	As defined in Clause 1.2.3
Bidding Process	As defined in Clause 1.2.1
Bid Stage	As defined in Clause 1.2.1
Construction Period	As defined in Clause 1.2.8
Contractor/Developer	As defined in Clause 1.1.2
Conflict of Interest	As defined in Clause 2.2.1(c)
Defect Liability Period	As defined in Clause 1.2.8
Eligible Projects	As defined in Clause 3.3
EPC	Engineering, Procurement and Construction
EPC Agreement	As defined in Clause 1.1.2
Estimated Project Cost	As defined in Clause 1.1.4
Government	Government of Jammu & Kashmir
Jt. Bidding Agreement	As defined in Clause 2.2.6 (e)
Lead Member	As defined in Clause 2.2.6 (c)
LOA	Letter of Award
Lowest Bidder	As defined in Clause 1.2.8
Member	Member of a Joint Venture
Net Worth	As defined in Clause 2.2.4
Project	As defined in Clause 1.1.1
Qualification	As defined in Clause 1.2.1
Qualification Stage	As defined in Clause 1.2.1
Re. or Rs. or INR	Indian Rupee
RFP or Request for Proposals	As defined in Clause 1.2.1
RFQ	As defined in the Disclaimer

The words and expressions beginning with capital letters and defined in this document shall, unless repugnant to the context, have the meaning ascribed thereto herein.

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## **DISCLAIMER**

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

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

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

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

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

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

The issue of this RFQ does not imply that the Authority is bound to select and shortlist prequalified Applications for Bid Stage or to appoint the selected Bidder or Contractor, as the case may be, for the Project and the Authority reserves the right to reject all or any of the Applications or Bids without assigning any reasons whatsoever.

The Applicant shall bear all its costs associated with or relating to the preparation and submission of its Application including but not limited to preparation, copying, postage, delivery fees, expenses associated with any demonstrations or presentations which may be required by the Authority or any other costs incurred in connection with or relating to its Application. All such costs and expenses will remain with the Applicant and the Authority shall not be liable in any manner whatsoever for the same or for any other costs or other expenses incurred by an Applicant in preparation or submission of the Application, regardless of the conduct or outcome of the Bidding Process.

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## KATRA DEVELOPMENT AUTHORITY

### INTRODUCTION

#### 1.1 Background

1.1.1 The Town of Katra is located at a distance of 635 km towards the North – West of the National Capital on National Highway 1A and about 50 Kms. from the state’s winter capital Jammu, which is at present connected by rail, bus and air with rest of the country. The importance of Katra is due to the location of Holy Cave of Goddess Shree Mata Vaishno Devi. Katra serves as the base camp for pilgrims who visit the Holy Cave. To reach Vaishno Devi temple the pilgrims have to first register at the Katra office of the shrine before starting the trek. The town is visited by Lakhs of pilgrims annually and hence religious tourism is one of the mainstays of the local economy. Considering the future growth potential of the town, Katra Development Authority (KDA/Authority) was constituted vide SRO 579 dated 12-09-1986 under subsection (1) of section (3) read with section (4) of J&K Development Act 1970. It was formed in 2002, under the Housing and Urban Development Department. The total area of KDA boundary is 78.38 sq.km. Authority has taken up the initiative of developing the Bus Terminal at Katra and development of transport infrastructure facilities (the “Project”) to mitigate the transport and parking related problems as faced by the pilgrims in the town, through Engineering, Procurement & Construction (“EPC”) mode on turnkey basis, and has decided to carry out the bidding process for selection of a private entity as the bidder to whom the Project may be awarded. Brief particulars of the Project are as follows:

S. No.	Name of the Bus Terminal	Site Area [in Hectares]	Indicative Project Cost [Rs. in Crores]
1.	Katra	5.95 ha land area available for development	100

Railway Station at Katra is operational since 2014. The site of the proposed interstate bus terminal (ISBT) shall form an integrated transport hub in Katra.

The proposed site is located on the northwest side of railway station. The site is very well connected via 60’ wide railway road and Jammu road. The site is directly accessible via 80’ wide ROW road. Entry point is near the Shrine board Office with steep slope on ground and similarly on the other side of the road is steep rise which connects to

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railway road. With the railway station at Katra being operational, the direct connectivity of the same to bus terminal will complement each other because they are at a walking distance of each other. The city as whole is surrounded by beautiful hills. The site also has hilly view towards east-north-west sides showing pathway towards the holy abode of Shree Mata Vaishno Devi Ji.

The Authority intends to pre-qualify and short-list suitable Applicants who will be eligible for participation in the Bid Stage (the “Bidders”), for awarding the Project through an open competitive bidding process in accordance with the procedure set out herein.

- 1.1.2 The selected Bidder, shall be a private or a public limited company duly incorporated under the Companies Act, 1956/2013 (the “Contractor/Developer”) and shall be responsible for designing, engineering, procurement and construction of the Project under and in accordance with the provisions of the EPC agreement (the “EPC Agreement”) to be entered into between the Contractor and the Authority in the form provided by the Authority as part of the Bidding Documents pursuant hereto. The Contractor shall also be responsible for the maintenance of the Project during the Defect Liability Period as defined in the EPC Agreement.
- 1.1.3 The scope of work will broadly include designing, engineering, procurement and construction of the bus terminal and related facilities (facilities like administrative blocks for Bus Operators, bus bays, shrine board counter, passenger amenities, accommodation facilities, support amenities, parking provisions for cars, taxi, etc., landscape area and circulation) as per the provisions of the EPC Agreement. In addition an auto stand is also proposed inside the complex for facilitating to and fro movement from the bus terminal to Banganga or other parts of the town.
- 1.1.4 Indicative capital cost of the Project (the “Estimated Project Cost”) will be revised and specified in the Bidding Documents of the Project. The assessment of actual costs, however, will have to be made by the Bidders at the Bid Stage.
- 1.1.5 The Authority shall receive Applications pursuant to this RFQ in accordance with the terms set forth herein as modified, altered, amended and clarified from time to time by the Authority, and all Applications shall be prepared and submitted in accordance with such terms on or before the date specified in Clause 1.3 for submission of Applications (the “Application Due Date”).

## **1.2 Brief description of the Bidding Process**

- 1.2.1 The Authority has adopted a two-stage process (collectively referred to as the "Bidding Process") for selection of the Bidder for award of the Project. The first stage (the "Qualification Stage") of the process involves qualification (the “Qualification”) of interested parties who make an Application in accordance with the provisions of this RFQ (the "Applicant", which expression shall, unless repugnant to the context, include the Members of the Joint Venture). At the end of this stage, the Authority expects to announce a short-list of prequalified

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Applicants who shall be eligible for participation in the second stage of the Bidding Process (the "Bid Stage") comprising Request for Proposals (the "Request for Proposals" or "RFP").

- 1.2.2 In the Qualification Stage, Applicants would be required to furnish all the information specified in this RFQ. Only those Applicants that are pre-qualified and short-listed by the Authority shall be invited to submit their Bids for the Project. The Applicants are advised to visit the site and familiarize themselves with the Project. Interested Applicants may obtain the RFQ document from the website of the Housing and Urban Development Department, Jammu & Kashmir i.e. **www.jkhudd.gov.in** or from the address given below in Clause 2.13.3 on all working days between 1000 hrs and 1500 hrs IST by written request clearly stating **"RFQ for Development of Inter State Bus Terminal in Katra on EPC basis"** and upon submission of a non-refundable fee of Indian Rupees ("INR/Rs") 20,000/- (Rupees Twenty Thousand only) by way of a valid crossed demand draft/ banker's cheque drawn in favour of "Katra Development Authority", payable on any scheduled bank in Jammu & Kashmir.
- 1.2.3 In the Bid Stage, the Bidders will be called upon to submit their financial offers (the "Bids") in accordance with the RFP and other documents to be provided by the Authority (collectively the "Bidding Documents"). The Bid shall be valid for a period of not less than 180 (one hundred and eighty) days from the date specified in Clause 1.3 for submission of Bids (the "Bid Due Date").
- 1.2.4 In terms of the RFP, a Bidder will be required to deposit, along with its Bid, a bid security equivalent to 1% (one per cent) of the Estimated Project Cost as defined in the RFP (the "Bid Security"), refundable not later than 90 (ninety) days from the Bid Due Date, except in the case of the selected Bidder whose Bid Security shall be retained till it has provided a Performance Security under the EPC Agreement. The Bidders will have an option to provide Bid Security in the form of a demand draft or a bank guarantee acceptable to the Authority and in such an event, the validity period of the demand draft or bank guarantee, as the case may be, shall not be less than 180 (one hundred and eighty) days from the Bid Due Date, inclusive of a claim period of 90 (ninety) days, and may be extended as may be mutually agreed between the Authority and the Bidder from time to time. The Bid shall be summarily rejected if it is not accompanied by the Bid Security.
- 1.2.5 Generally, the Lowest Bidder shall be the selected Bidder. The remaining Bidders shall be kept in reserve and may, in accordance with the process specified in the RFP, be invited to match the Bid submitted by the Lowest Bidder in case such Lowest Bidder withdraws or is not selected for any reason. In the event that none of the other Bidders matches the Bid of the Lowest Bidder, the Authority may, in its discretion, invite fresh Bids from Bidders or annul the Bidding Process, as the case may be.
- 1.2.6 During the Bid Stage, Bidders are invited to examine the Project in greater detail, and to carry out, at their cost, such studies as may be required for submitting their respective Bids for award of the EPC Agreement including implementation of the Project.

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- 1.2.7 As part of the Bidding Documents, the Authority will provide a draft EPC Agreement and other information pertaining/ relevant to the Project available with it.
- 1.2.8 Bids will be invited for the Project on the basis of the lowest cost of construction quoted by a Bidder for implementation of the Project, (the "Bid Price"). The total time allowed for completion of construction under the EPC Agreement (the "Construction Period") and the period during which the Contractor shall be liable for rectification of any defect or deficiency in the Project after completion of the Construction Period (the "Defect Liability Period") shall be predetermined, and will be indicated in the draft EPC Agreement forming part of the Bidding Documents and shall be in accordance with the laws of the State of Jammu & Kashmir. The Bid Price shall constitute the sole criteria for evaluation of Bids. The Project shall be awarded to the Bidder quoting the lowest Bid Price.

In this RFQ, the term "**Lowest Bidder**" shall mean the Bidder who is offering the lowest Bid Price.

- 1.2.9 Upon completion of construction, the Authority may levy and charge user fee from the users of the Project in accordance with the applicable laws in the State of Jammu & Kashmir.
- 1.2.10 Further and other details of the process to be followed at the Bid Stage and the terms thereof will be spelt out in the Bidding Documents.
- 1.2.11 Any queries or request for additional information concerning this RFQ shall be submitted in writing or by fax and e-mail to the officer designated in Clause 2.13.3 below. The envelopes/ communications shall clearly bear the following identification/ title: "**Queries/ Request for Additional Information: RFQ for Development of Inter State Bus Terminal in Katra on EPC basis**".
- 1.2.12 The Project primarily envisages the below mentioned scope of work. A detailed scope of work would be provided in the Bidding Documents issued to the pre qualified Applicants:
- a. Preparing detailed design for the proposed Project in accordance with the approved conceptual plans and designs and getting them approved from the Authority or their authorized representative, local bodies and other agencies.
  - b. Construction of the Project at the proposed Site location. The construction work is estimated to be completed in the stipulated time frame of 24 months as provided in the EPC Agreement.
  - c. Maintenance of the Project during the Defect Liability Period as defined in the EPC Agreement.

### **1.3 Schedule of Bidding Process**

- 1.3.1 The Authority shall endeavor to adhere to the following schedule at the

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RfQ Stage:

<b>Event Description</b>	<b>Date</b>
<u>Qualification Stage</u>	
1. Last date for receiving queries	15.04.2017
2. Authority response to queries latest by	22.04.2017
3. Application Due Date	02.05.2017
4. Announcement of short-listed Bidders	09.05.2017 (Tentative)

<b><u>Bid Stage</u></b>	<b>Estimated Date</b>
1. Issuance of Bid Documents	To be specified
2. Last date for receiving queries	To be specified
3. Pre-Bid meeting	To be specified
4. Authority response to queries latest by	To be specified
5. Bid Due Date	To be specified
6. Opening of Bids	On Bid Due Date
7. Letter of Award (LOA) Date	Within 30 days of Bid Due Date
8. Validity of Bids	180 days of Bid Due Date
9. Signing of EPC Agreement LOA	Within 30 days of award of LOA

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## **2. INSTRUCTIONS TO APPLICANTS**

### **A. GENERAL**

#### **2.1 Scope of Application**

2.1.1 The Authority wishes to receive Applications for Qualification in order to short list experienced and capable Applicants for the Bid Stage.

2.1.2 Prequalified Applicants may subsequently be invited to submit the Bids for the Project.

#### **2.2 Eligibility of Applicants**

2.2.1 For determining the eligibility of Applicants for their pre-qualification hereunder, the following shall apply:

- a) The Applicant for pre-qualification may be a single entity or a group of entities (the “Joint Venture”), coming together to implement the Project. However, no applicant applying individually or as a member of a Joint Venture, as the case may be, can be member of another Applicant. The term Applicant used herein would apply to both a single entity and a Joint Venture.
- b) An Applicant may be a private or a public limited company incorporated under the Indian Companies Act, 1956/2013, as the case may be, or any combination of them with a formal intent to enter into a Joint Venture Agreement or under an existing agreement to form a Joint Venture. A Joint Venture shall be eligible for consideration subject to the conditions set out in Clause 2.2.6 below.
- c) An Applicant shall not have a conflict of interest (the “Conflict of Interest”) that affects the Bidding Process. Any Applicant found to have a Conflict of Interest shall be disqualified. An Applicant shall be deemed to have a Conflict of Interest affecting the Bidding Process, if:
  - (i) the Applicant, its Member or any constituent thereof and any other Applicant, its Member or any constituent thereof have common controlling shareholders or other ownership interest; provided that this disqualification shall not apply in cases where the direct or indirect shareholding of an Applicant, its Member (or any shareholder thereof having a shareholding of more than 5 per cent of

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the paid up and subscribed share capital of such Applicant, Member, as the case may be) in the other Applicant, its Member is less than 5 per cent of the subscribed and paid up equity share capital thereof; provided further that this disqualification shall not apply to any ownership by a bank, insurance company, pension fund or a public financial institution referred to in section 2(72) of the Companies Act 2013. For the purposes of this Clause 2.2.1 (c), indirect shareholding held through one or more intermediate persons shall be computed as follows: (aa) where any intermediary is controlled by a person through management control or otherwise, the entire shareholding held by such controlled intermediary in any other person (the "Subject Person") shall be taken into account for computing the shareholding of such controlling person in the Subject Person; and (bb) subject always to sub-clause (aa) above, where a person does not exercise control over an intermediary, which has shareholding in the Subject Person, the computation of indirect shareholding of such person in the Subject Person shall be undertaken on a proportionate basis; provided, however, that no such shareholding shall be reckoned under this sub clause (bb) if the shareholding of such person in the intermediary is less than 26% of the subscribed and paid up equity shareholding of such intermediary; or

- (ii) a constituent of such Applicant is also a constituent of another Applicant; or
- (iii) such Applicant receives or has received any direct or indirect subsidy, grant, concessional loan or subordinated debt from any other Applicant or has provided any such subsidy, grant, concessional loan or subordinated debt to any other Applicant, its Member; or
- (iv) such Applicant has the same legal representative for the purposes of this Application as any other

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Applicant; or

- (v) such Applicant has a relationship with another Applicant, directly or through common third party/ parties, that puts either or both of them in a position to have access to each others' information about, or to influence the Application of either or each other; or
  - (vi) such Applicant has participated as a consultant to the Authority in the preparation of any documents, design or technical specifications of the Project.
- d) An Applicant shall be liable for disqualification if any legal, financial or technical adviser of the Authority in relation to the Project is engaged by the Applicant or its Member, as the case may be, in any manner for matters related to or incidental to the Project. For the avoidance of doubt, this disqualification shall not apply where such adviser was engaged by the Applicant or its Member in the past but its assignment expired or was terminated 6 (six) months prior to the date of issue of this RFQ. Nor will this disqualification apply where such adviser is engaged after a period of 3 (three) years from the date of commercial operation of the Project.

Explanation:

In case an Applicant is a Joint Venture, then the term Applicant as used in this Clause 2.2.1, shall include each Member of such Joint Venture.

2.2.2 To be eligible for pre-qualification, an Applicant, shall fulfill the following conditions of eligibility:

- (A) **Turnover:** The Applicant shall, over the past 5 (five) financial years preceding the Application Due Date, have minimum average turnover of Rs. 50 crore (Rs. Fifty Crore) from construction works.
- (B) **Networth:** The Applicant shall have a minimum Net Worth of Rs. 25 Crore (Rs. Twenty Five crore) at the close of the preceding financial year.

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2.2.3 In case of a Joint Venture, the Turnover and Networth of all the Members of Joint Venture would be taken into account for satisfying the above conditions of eligibility. Further, Lead Member shall meet at least 60% requirement of Turnover and Networth required as per Clause 2.2.2 (A) & (B) and other Joint Venture member shall meet at least 10% requirement of Turnover and Networth as per Clause 2.2.2 (A) & (B).

2.2.4 For the purposes of this RFQ, net worth (the “**Net Worth**”) shall mean the sum of subscribed and paid up equity and reserves from which shall be deducted the sum of revaluation reserves, miscellaneous expenditure not written off and reserves not available for distribution to equity share holders.

2.2.5 The Applicant shall submit a Power of Attorney as per the format at Appendix- II, authorizing the signatory of the Application to commit the Applicant. In the case of a Joint Venture, the Members shall submit a Power of Attorney in favour of the Lead Member as per format at Appendix-III.

2.2.6 In case the Applicant is a Joint Venture, it shall, comply with the following additional requirements:

- (a) Number of members in a Joint Venture shall not exceed 2 (two);
- (b) Subject to the provisions of clause (a) above, the Application shall contain the information required for each member of the Joint Venture;
- (c) Members of the Joint Venture shall nominate one member as the lead member (the “Lead Member”). The nomination(s) shall be supported by a Power of Attorney, as per the format at Appendix-III, signed by all the other members of the Joint Venture;
- (d) An individual Applicant cannot at the same time be member of a Joint Venture applying for pre-qualification. Further, a member of a particular Applicant Joint Venture cannot be member of any other Applicant Joint Venture applying for pre-qualification;
- (e) Members of the Joint Venture shall enter into a binding Joint Bidding Agreement, substantially in the form specified at Appendix-IV (the “Jt. Bidding Agreement”), for the purpose of making the Application and submitting a Bid in the event of being short-listed. The Jt. Bidding Agreement, to be

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submitted along with the Application, shall, inter alia convey the commitment(s) of the Lead Member in accordance with this RFQ, in case the contract to undertake the Project is awarded to the Joint Venture;

- (f) Except as provided under this RFQ and the Bidding Documents, there shall not be any amendment to the Joint Bidding Agreement without the prior written consent of the Authority.
- (g) In case the Project is awarded to a Joint Venture, the Lead Member shall execute the EPC Agreement with the Authority and shall be the sole point of contact for any correspondence and interaction with the Authority, attending any meeting with the Authority or review sessions, raising of invoices, claiming of any payment from the Authority, serving/receiving any notices and for completing the Project in accordance with the provisions of the EPC Agreement to the satisfaction of the Authority. The Lead Member shall have the utmost responsibility to complete the Project as per the EPC Agreement.

2.2.7 Any entity which has been barred by the Central/ State Government, or any entity controlled by it, from participating in any project, and the bar subsists as on the date of Application, would not be eligible to submit an Application, either individually or as member of a Joint Venture.

2.2.8 An Applicant including any Member should, in the last 5 (five) years, have not been blacklisted on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award against the Applicant or Member, as the case may be, nor has been expelled from any project or contract by any public entity nor have had any contract terminated by any public entity for breach by such Applicant or Member.

2.2.9 The following conditions shall be adhered to while submitting an Application:

- (a) Applicants shall attach clearly marked and referenced continuation sheets in the event that the space provided in the prescribed forms in the Annexes is insufficient. Alternatively, Applicants may format the prescribed forms making due provision for incorporation of the requested information;

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(b) Information supplied by an Applicant (or other constituent Member if the Applicant is a Joint Venture) must apply to the Applicant or Member named in the Application. Invitation to submit Bids will be issued only to Applicants whose identity and/ or constitution is identical to that at pre-qualification stage;

(c) In responding to the pre-qualification submissions, Applicants should demonstrate their capabilities in accordance with Clause 3.2 below; and

(d) In case the Applicant is a Joint Venture, each Member should substantially satisfy the pre-qualification requirements to the extent specified herein.

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

(a) Where, on the date of the Application, not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital in an Applicant or its Member is held by persons resident outside India or where an Applicant or its Member is controlled by persons resident outside India; or

(b) if at any subsequent stage after the date of the Application, there is an acquisition of not less than 15% (fifteen percent) of the aggregate issued, subscribed and paid up equity share capital or control, by persons resident outside India, in or of the Applicant or its Member;

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

The holding or acquisition of equity or control, as above, shall include direct or indirect holding/ acquisition, including by transfer, of the direct or indirect legal or beneficial ownership or control, by persons acting for themselves or in concert and in determining such holding or acquisition, the Authority shall be guided by the principles, precedents and definitions contained in the Securities and Exchange Board of India (Substantial Acquisition of

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Shares and Takeovers) Regulations, 1997, or any substitution thereof, as in force on the date of such acquisition.

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

2.2.12 Notwithstanding anything to the contrary contained herein, in the event that the Application Due Date falls within three months of the closing of the latest financial year of an Applicant, it shall ignore such financial year for the purposes of its Application and furnish all its information and certification with reference to the 5 (five) years preceding its latest financial year. For the avoidance of doubt, financial year shall, for the purposes of an Application hereunder, mean the accounting year followed by the Applicant in the course of its normal business.

### **2.3 Change in composition of the Joint Venture**

2.3.1 Change in the composition of a Joint Venture will not be permitted by the Authority during the Qualification Stage.

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

- (a) The application for such change is made no later than 15 (fifteen) days prior to the Bid Due Date;
- (b) The Lead Member continues to be the Lead Member of the Joint Venture;
- (c) The substitute is at least equal, in terms of technical capacity, to the Joint Venture Member who is sought to be substituted and the modified Joint Venture shall continue to meet the pre-qualification and short-listing criteria for Applicants; and
- (d) The new Member(s) expressly adopt(s) the Application already made on behalf of the Joint Venture as if it were a party to it originally, and is not an Applicant/Member of any other Joint Venture bidding for this Project.

2.3.3 Approval for change in the composition of a Joint Venture shall be at the sole discretion of the Authority and must be approved by the

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Authority in writing.

2.3.4 The modified/ reconstituted Joint Venture shall submit a revised Jt. Bidding Agreement before the Bid Due Date.

2.3.5 Notwithstanding anything to the contrary contained in sub-clause (c) (i) of Clause 2.2.1, an Applicant may, within 10 (ten) days after the Application Due Date, remove from its Joint Venture any Member who suffers from a Conflict of Interest, and such removal shall be deemed to cure the Conflict of Interest arising in respect thereof.

2.3.6 The modified/reconstituted Joint Venture shall submit a Power of Attorney, substantially in the form as Appendix-III, prior to the Bid Due Date.

## **2.4 Number of Applications and costs thereof**

2.4.1 No Applicant shall submit more than one Application for the Project. An Applicant applying individually or as a member of a Joint Venture shall not be entitled to submit another application either individually or as a member of any Joint Venture, as the case may be.

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

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

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

## **2.6 Acknowledgement by Applicant**

2.6.1 It shall be deemed that by submitting the Application, the Applicant has:

(a) Made a complete and careful examination of the RFQ;

(b) Received all relevant information requested from the Authority;

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(c) Accepted the risk of inadequacy, error or mistake in the information provided in the RFQ or furnished by or on behalf of the Authority relating to any of the matters referred to in Clause 2.5 above; and

(d) Agreed to be bound by the undertakings provided by it under and in terms hereof.

2.6.2 The Authority shall not be liable for any omission, mistake or error in respect of any of the above or on account of any matter or thing arising out of or concerning or relating to the RFQ or the Bidding Process, including any error or mistake therein or in any information or data given by the Authority.

## **2.7 Right to accept or reject any or all Applications/ Bids**

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

2.7.2 The Authority reserves the right to reject any Application and/ or Bid if:

- (a) at any time, a material misrepresentation is made or uncovered, or
- (b) the Applicant does not provide, within the time specified by the Authority, the supplemental information sought by the Authority for evaluation of the Application.

If the Applicant/Bidder is a Joint Venture, then the entire Joint Venture may be disqualified/ rejected. If such disqualification/ rejection occurs after the Bids have been opened and the Lowest Bidder gets disqualified/ rejected, then the Authority reserves the right to:

- (i) invite the remaining Bidders to match the Lowest Bidder/ submit their Bids in accordance with the RFP; or
- (ii) take any such measure as may be deemed fit in the sole discretion of the Authority, including annulment of the Bidding

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Process.

2.7.3 In case it is found during the evaluation or at any time before signing of the EPC Agreement or after its execution and during the period of subsistence thereof, including the Defect Liability Period that one or more of the pre-qualification conditions have not been met by the Applicant or the Applicant has made material misrepresentation or has given any materially incorrect or false information, the Applicant shall be disqualified forthwith if not yet appointed as the Contractor either by issue of the LOA or entering into of the EPC Agreement, and if the Applicant has already been issued the LOA or has entered into the EPC Agreement, as the case may be, the same shall, notwithstanding anything to the contrary contained therein or in this RFQ, be liable to be terminated, by a communication in writing by the Authority to the Applicant, without the Authority being liable in any manner whatsoever to the Applicant and without prejudice to any other right or remedy which the Authority may have under this RFQ, the Bidding Documents, the EPC Agreement or under applicable law.

2.7.4 The Authority reserves the right to verify all statements, information and documents submitted by the Applicant in response to the RFQ. Any such verification or lack of such verification by the Authority shall neither constitute a waiver of Authority's rights nor shall relieve the Applicant of its obligations or liabilities hereunder nor will it affect any rights of the Authority thereunder.

## **B. DOCUMENTS**

### **2.8 Contents of the RFQ**

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

Invitation for Qualification

Section 1. Introduction

Section 2. Instructions to Applicants

Section 3. Criteria for Evaluation

Section 4. Fraud & Corrupt Practices

Section 5. Pre Application Queries

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## Section 6. Miscellaneous

### Appendices

- I. Letter comprising the Application
- II. Power of Attorney for signing of Application
- III. Power of Attorney for Lead Member of Joint Venture
- IV. Joint Bidding Agreement for Joint Venture

## **2.9 Clarifications**

2.9.1 Applicants requiring any clarification on the RFQ may notify the Authority in writing or by fax and e-mail in accordance with Clause 1.2.11. They should send in their queries before the date specified in the schedule of Bidding Process contained in Clause 1.3. The Authority shall endeavor to respond to the queries within the period specified therein, but no later than 10 (ten) days prior to the Application Due Date. The responses will be sent by fax and/or e-mail. The Authority will respond with all the queries and its responses thereto without identifying the source of queries.

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

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

## **2.10 Amendment of RFQ**

2.10.1 At any time prior to the deadline for submission of Application, the Authority may, for any reason, whether at its own initiative or in response to clarifications requested by an Applicant, modify the RFQ by the issuance of Addenda.

2.10.2 Any Addendum thus issued will be uploaded on the website of the Housing and Urban Development Department, Jammu & Kashmir i.e. [www.jkhudd.gov.in](http://www.jkhudd.gov.in).

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2.10.3 In order to afford the Applicants a reasonable time for taking an Addendum into account, or for any other reason, the Authority may, in its sole discretion, extend the Application Due Date.

## **C. PREPARATION AND SUBMISSION OF APPLICATION**

### **2.11 Language**

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

### **2.12 Format and signing of Application**

2.12.1 The Applicant shall provide all the information sought under this RFQ. The Authority will evaluate only those Applications that are received in the required formats and are complete in all respects. Incomplete and /or conditional Applications shall be liable to rejection.

2.12.2 The Applicant shall prepare 1 (one) original set of the Application (together with originals/ copies of Documents required to be submitted along therewith pursuant to this RFQ) and clearly marked "ORIGINAL". In addition, the Applicant shall submit 1 (one) copy of the Application, alongwith Documents required to be submitted along therewith pursuant to this RFQ, marked "COPY". The Applicant shall also provide 2 (two) soft copies on Compact Disc (CD). In the event of any discrepancy between the original and the copy, the original shall prevail.

2.12.3 The Application and its copy shall be typed or written in indelible ink and signed by the authorized signatory of the Applicant who shall also initial each page in blue ink. In case of printed and published Documents, only the cover shall be initialed. All the alterations, omissions, additions or any other amendments made to the Application shall be initialed by the person(s) signing the Application. The Application shall contain page numbers in continuation and shall be hard/spiral bound.

### **2.13 Sealing and Marking of Applications**

2.13.1 The Applicant shall submit the Application in the format specified at Appendix-I, together with the documents specified in Clause 2.13.2,

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and seal it in an envelope and mark the envelope as “APPLICATION”. The Applicant shall seal the original and the copy of the Application, together with their respective enclosures, in separate envelopes duly marking the envelopes as “ORIGINAL” and “COPY”. The envelopes shall then be sealed in an outer envelope which shall also be marked in accordance with Clauses 2.13.2 and 2.13.3.

2.13.2 Each envelope shall contain:

- (i) Application in the prescribed format (Appendix-I) along with Annexes and supporting documents;
- (ii) Power of Attorney for signing the Application as per the format at Appendix-II;
- (iii) if applicable, the Power of Attorney for Lead Member of Joint Venture as per the format at Appendix-III;
- (iv) copy of the Joint. Bidding Agreement, in case of a Joint Venture, substantially in the format at Appendix-IV;
- (v) copy of Memorandum and Articles of Association of the Applicant;
- (vi) copies of Applicant’s duly audited balance sheet and profit and loss account for the preceding five years; and
- (vii) Name, designation and contact details of the authorized person with whom the Authority or its consultants may correspond;

Each of the envelopes shall clearly bear the following identification:

**“Application for Qualification: Development of Inter State Bus Terminal in Katra on EPC basis”**

and shall clearly indicate the name and address of the Applicant. In addition, the Application Due Date should be indicated on the right hand corner of each of the envelopes.

2.13.3 Each of the envelopes shall be addressed to:

Chief Executive Officer,  
Katra Development Authority,  
KDA Office, Railway Road  
Katra, (J&K)  
Ph. +01991-232336  
Email. Kdaceo23@gmail

2.13.4 If the envelopes are not sealed and marked as instructed above, the Authority assumes no responsibility for the misplacement or premature opening of the contents of the Application and consequent losses, if any, suffered by the Applicant.

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

#### **2.14 Application Due Date**

2.14.1 Applications should be submitted before 15.00 hours IST on the Application Due Date, at the address provided in Clause 2.13.3 in the manner and form as detailed in this RFQ. A receipt thereof should be obtained from the person specified in Clause 2.13.3.

2.14.2 The Authority may, in its sole discretion, extend the Application Due Date by issuing an Addendum in accordance with Clause 2.10 uniformly for all Applicants.

#### **2.15 Late Applications**

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

#### **2.16 Modifications/ substitution/ withdrawal of Applications**

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

2.16.2 The modification, substitution or withdrawal notice shall be prepared, sealed, marked, and delivered in accordance with Clause 2.13, with the envelopes being additionally marked "MODIFICATION", "SUBSTITUTION" or "WITHDRAWAL", as appropriate.

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

### **D. EVALUATION PROCESS**

#### **2.17 Opening and Evaluation of Applications**

2.17.1 The Authority shall open the Applications at 15.30 hours IST on the Application Due Date, at the place specified in Clause 2.13.3 and in the presence of the Applicants who choose to attend.

2.17.2 Applications for which a notice of withdrawal has been submitted in accordance with Clause 2.16 shall not be opened.

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- 2.17.3 The Authority will subsequently examine and evaluate Applications in accordance with the provisions set out in Section 3.
- 2.17.4 Applicants are advised that pre-qualification of Applicants will be entirely at the discretion of the Authority. Applicants will be deemed to have understood and agreed that no explanation or justification on any aspect of the Bidding Process or selection will be given.
- 2.17.5 Any information contained in the Application shall not in any way be construed as binding on the Authority, its agents, successors or assigns, but shall be binding against the Applicant if the Project is subsequently awarded to it on the basis of such information.
- 2.17.6 The Authority reserves the right not to proceed with the Bidding Process at any time without notice or liability and to reject any or all Application(s) without assigning any reasons.
- 2.17.7 If any information furnished by the Applicant is found to be incomplete, or contained in formats other than those specified herein, the Authority may, in its sole discretion, exclude the relevant project from consideration as per Clause 3.2.
- 2.17.8 In the event that an Applicant claims credit for a project, and such claim is determined by the Authority as incorrect or erroneous, the Authority shall reject such claim and exclude the same from consideration. Where any information is found to be patently false or amounting to a material misrepresentation, the Authority reserves the right to reject the Application and/ or Bid in accordance with the provisions of Clauses 2.7.2 and 2.7.3.

## **2.18 Confidentiality**

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

## **2.19 Tests of responsiveness**

- 2.19.1 Prior to evaluation of Applications, the Authority shall determine whether each Application is responsive to the requirements of the RFQ.

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An Application shall be considered responsive only if:

- (a) it is received as per format at Appendix-I.
- (b) it is received by the Application Due Date including any extension thereof pursuant to Clause 2.14.2;
- (c) it is signed, sealed, hard bound and marked as stipulated in Clauses 2.12 and 2.13;
- (d) it is accompanied by the Power of Attorney as specified in Clause 2.2.5, and in the case of a Joint Venture, the Power of Attorney as specified also in Clause 2.2.5;
- (e) it contains all the information and documents (complete in all respects) as requested in this RFQ;
- (f) it contains information in formats same as those specified in this RFQ;
- (g) it contains certificates from its statutory auditors in the formats specified at Appendix-I of the RFQ for each Eligible Project;
- (h) Demand Draft/banker's cheque of Rs 20,000/- (Rupees Twenty Thousand Only) towards payment for cost of the RFQ Document; or a proof for payment of the same in cash at the time of purchase of the RFQ Document duly certified by the Applicant;
- (i) it is accompanied by the Joint. Bidding Agreement (for Joint Venture), specific to the Project, as stipulated in Clause 2.2.6 (e);
- (j) it does not contain any condition or qualification; and
- (k) it is not non-responsive in terms hereof.

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

## **2.20 Clarifications**

2.20.1 To facilitate evaluation of Applications, the Authority may, at its sole discretion, seek clarifications from any Applicant regarding its Application. Such clarification(s) shall be provided within the time specified by the Authority for this purpose. Any request for clarification(s) and all clarification(s) in response thereto shall be in writing.

2.20.2 If an Applicant does not provide clarifications sought under Clause 2.20.1 above within the prescribed time, its Application shall be liable

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to be rejected. In case the Application is not rejected, the Authority may proceed to evaluate the Application by construing the particulars requiring clarification to the best of its understanding, and the Applicant shall be barred from subsequently questioning such interpretation of the Authority.

## **E. QUALIFICATION AND BIDDING**

### **2.21 Short-listing and notification**

After the evaluation of Applications, the Authority would announce a list of shortlisted pre-qualified Applicants who will be eligible for participation in the Bid Stage. The Authority will not entertain any query or clarification from Applicants who fail to qualify.

### **2.22 Submission of Bids**

The Bidders will be requested to submit a Bid in the form and manner to be set out in the Bidding Documents.

Only pre-qualified Applicants shall be invited by the Authority to submit their Bids for the Project. The Authority is likely to provide a comparatively short time span for submission of the Bids for the Project. The Applicants are therefore advised to visit the site and familiarize themselves with the Project by the time of submission of the Application. No extension of time is likely to be considered for submission of Bids pursuant to invitation that may be issued by the Authority.

### **2.23 Proprietary data**

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

### **2.24 Correspondence with the Applicant**

Save and except as provided in this RFQ, the Authority shall not entertain any correspondence with any Applicant in relation to the acceptance or rejection of any Application.

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### 3. CRITERIA FOR EVALUATION

#### 3.1 Evaluation parameters

Only those Applicants who meet the eligibility criteria specified in Clause 2.2.2 above shall qualify for evaluation under this Section 3.

#### 3.2 Technical Capacity

Subject to the provisions of Clause 2.2, the Applicant should have in the last five financial years, completed and handed over to the concerned government/quasi government authority (in case of PPP or EPC projects):

i) At least **one Eligible Project (having 50 crores of RCC structural works in it)** of value of **100 crores** or more with some Central Government Department/State Government Department/Central Autonomous Body/Central Public Sector undertaking / State Autonomous Body / State Government undertaking.

ii) At least **two Eligible Projects (having 25 crores of RCC structural works in it)** of value of **50 crores** or more with some Central Government Department/State Government Department/Central Autonomous Body/Central Public Sector undertaking / State Autonomous Body / State Government undertaking

iii) At least **three Eligible Projects (having 12.5 crores of RCC structural works in it)** of value of **33.33 crores** or more with some Central Government Department/State Government Department/Central Autonomous Body/Central Public Sector undertaking / State Autonomous Body / State Government undertaking

#### 3.3 Eligible Projects

The eligible projects to qualify for the purpose of Clause 3.2 above (the “**Eligible Projects**”) shall include infrastructure projects like highways, ports, airports, railways, metro rail, industrial parks/ estates, logistic parks, housing complex, public utility buildings with green norms like shopping malls, hotels, malls, sports complex, bus terminals, whether in EPC mode, (Public Private Partnership) PPP mode.

For the purpose of Clause 3.2, it also includes Eligible Projects set up by an Applicant on its own or in association with other partners pursuant to all municipal approvals/clearances, subject to such project/projects qualify(ies) the other criteria as mentioned in Clause 3.2;

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The value of executed work shall be brought to current costing level by enhancing the actual value of work at simple rate of **7% per annum**; calculated from the date of completion to last date of receipt of Application for RFQ.

The Applicant must establish a Solvency of Rs. 25 Crores certified by Applicant's Bankers.

3.3.1 Experience as a joint venture member will be considered in proportion to the percentage of work performed in the project at the time of execution of the project. For each quoted project documentary evidence in the form of a CA certificate (Appendix I, Annex II) must be submitted along with the Application.

3.3.2 The Proposal must be accompanied by the audited Balance Sheet and Profit and Loss Account of the Bidder (of each member in case of a Joint Venture) as per Appendix I, Annex III for the last five (5) Financial Years starting 2011-2012. For the purpose of Qualification, the Applicant – a single entity or a Joint Venture needs to demonstrate the financial capability in terms of average annual turnover during last 5 years starting 2011-12.

On each of these parameters, the Bidder would be required to meet the evaluation criteria as detailed herein. Only those Bidders meeting all the criterion will be qualified to participate in the Bid Stage.

### **3.4 Group companies/associates' technical and financial capacity**

For evaluation under Clauses 2.2 and 3.2 respectively, the financial and technical capabilities of the group companies/associates shall also be considered. For these purposes group companies/associates in relation to the Applicant shall mean a person who controls and is controlled by or is under the common control with such Applicant. As used in this definition, the expression 'control' means, with respect to a person, which is company or corporation, the ownership, directly or indirectly of more than 50% of the voting shares of such person, and with respect to a person which is not a company or corporation, the power to direct the management and policies of such a person, whether by operation of law or by contract or otherwise”.

### **3.5 Documentary Evidence**

In case the Applicant claims technical and/or financial capacity of its group companies/associates, the Applicant shall necessarily submit documentary evidence in proof of such claims. Such documentary evidence shall consist of CA certificates to support and establish such capacity and also to establish requisite “Control” relationship as defined in 3.3 above.

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### **3.6 Short-listing of Applicants**

Applicants qualifying in accordance with Clauses 2.2 and 3.2 above shall be short-listed and considered pre-qualified Applicants.

## **4. FRAUD AND CORRUPT PRACTICES**

- 4.1 The Applicants and their respective officers, employees, agents and advisers shall observe the highest standard of ethics during the Bidding Process. Notwithstanding anything to the contrary contained herein, the Authority may reject an Application without being liable in any manner whatsoever to the Applicant if it determines that the Applicant has, directly or indirectly or through an agent, engaged in corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice in the Bidding Process.
- 4.2 Without prejudice to the rights of the Authority under Clause 4.1 hereinabove, if an Applicant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice during the Bidding Process, such Applicant shall not be eligible to participate in any tender or RFQ issued by the Authority during a period of 3 (three) years from the date such Applicant is found by the Authority to have directly or indirectly or through an agent, engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as the case may be.
- 4.3 For the purposes of this Clause, the following terms shall have the meaning hereinafter respectively assigned to them
- (a) “corrupt practice” means (i) the offering, giving, receiving, or soliciting, directly or indirectly, of anything of value to influence the actions of any person connected with the Bidding Process (for the avoidance of doubt, offering of employment to, or employing, or engaging in any manner whatsoever, directly or indirectly, any official of the Authority who is or has been associated in any manner, directly or indirectly, with the Bidding Process or the LOA or has dealt with matters concerning the EPC Agreement or arising therefrom, before or after the execution thereof, at any time prior to the expiry of one year from the date such official resigns or retires from or otherwise ceases to be in the service of the Authority, shall be deemed to constitute influencing the actions of a person connected with the Bidding Process); or (ii) save and except as permitted under sub clause (d) of Clause 2.2.1, engaging in any manner whatsoever, whether during the Bidding Process or after the issue of the LOA or after the execution of the EPC Agreement, as the case may be, any person in

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respect of any matter relating to the Project or the LOA or the EPC Agreement, who at any time has been or is a legal, financial or technical adviser of the Authority in relation to any matter concerning the Project;

(b) “fraudulent practice” means a misrepresentation or omission of facts or suppression of facts or disclosure of incomplete facts, in order to influence the Bidding Process ;

(c) “coercive practice” means impairing or harming or threatening to impair or harm, directly or indirectly, any person or property to influence any person’s participation or action in the Bidding Process;

(d) “undesirable practice” means (i) establishing contact with any person connected with or employed or engaged by the Authority with the objective of canvassing, lobbying or in any manner influencing or attempting to influence the Bidding Process; or (ii) having a Conflict of Interest; and

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

## 5. PRE-APPLICATION QUERIES

5.1 Applicants are encouraged to raise their queries with regard to the Project and the RfQ. They may send their queries to the concerned person as mentioned in Clause 2.13.3 with a copy to **abacus@airtelmail.in** by its due date as mentioned in the Schedule of Bidding in Clause 1.3.1. The Authority shall respond to the queries by its due date as mentioned in Clause 1.3.1.

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

## 6. MISCELLANEOUS

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

6.2 The Authority, in its sole discretion and without incurring any

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obligation or liability, reserves the right, at any time, to

(a) suspend and/ or cancel the Bidding Process and/ or amend and/ or supplement the Bidding Process or modify the dates or other terms and conditions relating thereto;

(b) consult with any Applicant in order to receive clarification or further information;

(c) pre-qualify or not to pre-qualify any Applicant and/ or to consult with any Applicant in order to receive clarification or further information;

(d) retain any information and/ or evidence submitted to the Authority by, on behalf of, and/ or in relation to any Applicant; and/ or

(e) independently verify, disqualify, reject and/ or accept any and all submissions or other information and/ or evidence submitted by or on behalf of any Applicant.

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

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**APPENDICES**

APPENDIX I: Letter Comprising the Application for Pre-Qualification

(Refer Clause 2.13.2)

Dated:

To,  
Chief Executive Officer,  
Katra Development Authority,  
KDA Office, Railway Road  
Katra, (J&K)  
Ph. +01991-232336

Sub: Application for pre-qualification for Development of Inter State  
Bus Terminal in Katra on EPC basis

Dear Sir,

1. With reference to your RFQ document dated .....<sup>1</sup>, we, having examined the RFQ document and understood its contents, hereby submit our Application for Qualification for the aforesaid project. The Application is unconditional and unqualified.

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<sup>1</sup> All blank spaces shall be suitably filled up by the Applicant to reflect the particulars relating to such Applicant

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2. We acknowledge that the Authority will be relying on the information provided in the Application and the documents accompanying such Application for prequalification of the Applicants, and we certify that all information provided in the Application and in Annexes I to IV is true and correct; nothing has been omitted which renders such information misleading; and all documents accompanying such Application are true copies of their respective originals.
  3. This statement is made for the express purpose of qualifying as a Bidder for the construction of Inter State Bus Terminal and maintenance of the Project during the Defect Liability Period.
  4. We shall make available to the Authority any additional information it may find necessary or require to supplement or authenticate the Qualification statement.
  5. We acknowledge the right of the Authority to reject our Application 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.
  6. We certify that in the last five years, we/ any of the Joint Venture Members have neither failed to perform on any contract, as evidenced by imposition of a penalty by an arbitral or judicial authority or a judicial pronouncement or arbitration award, nor been expelled from any project or contract nor have had any contract terminated for breach on our part.
  7. We declare that:
    - (a) We have examined and have no reservations to the RFQ document, including any Addendum issued by the Authority from time to time.
    - (b) We do not have any conflict of interest in accordance with Clauses 2.2.1 (c) and 2.2.1(d) of the RFQ document; and
    - (c) We have not directly or indirectly or through an agent engaged or indulged in any corrupt practice, fraudulent practice, coercive practice, undesirable practice or restrictive practice, as defined in Clause 4.3 of the RFQ document, in respect of any tender or request for proposal issued by or any agreement entered into with the Authority or any other public sector enterprise or any government, Central or State; and
    - (d) We hereby certify that we have taken steps to ensure that in conformity with the provisions of Clause 4 of the RFQ document, no person acting for us or on our behalf has engaged or will engage in any corrupt/ fraudulent/coercive/ undesirable/restrictive practice.
  8. We understand that you may cancel the Bidding Process at any time

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and that you are neither bound to accept any Application that you may receive nor to invite the Applicants to Bid for the Project, without incurring any liability to the Applicants, in accordance with Clause 2.17.6 of the RFQ document.

9. We believe that we/ our Joint Venture/ proposed Joint Venture satisfy(ies) the Net Worth criteria and meet(s) all the requirements as specified in the RFQ document and are/ is qualified to submit a Bid.
10. We declare that we/ any Member of the Joint Venture are not a Member of a/ any other Joint Venture applying for pre-qualification.
11. We certify that in regard to matters other than security and integrity of the country, we/ any Member of the Joint Venture have not been convicted by a Court of Law or indicted or adverse orders passed by a regulatory authority which could cast a doubt on our ability to undertake the Project or which relates to a grave offence that outrages the moral sense of the community.
12. We further certify that in regard to matters relating to security and integrity of the country, we/ any Member of the Joint Venture have not been charge-sheeted by any agency of the Government or convicted by a Court of Law.
13. We further certify that no investigation by a regulatory authority is pending either against us/ any Member of the Joint Venture or against our CEO or any of our Directors/ Managers/ employees.
14. We undertake that in case due to any change in facts or circumstances during the Bidding Process, we are attracted by the provisions of disqualification in terms of the provisions of this RFQ, we shall intimate the Authority of the same immediately.
15. The Statement of Legal Capacity as per format provided at Annex-V in Appendix-I of the RFQ document, and duly signed, is enclosed. The power of attorney for signing of application and the power of attorney for Lead Member of Joint Venture, as per format provided at Appendix II and III respectively of the RFQ, are also enclosed.
16. We certify that the (Applicant/Lead Member) is an existing Company incorporated under the Indian Companies Act, 1956/2013, as the case may be.
17. We hereby irrevocably waive any right or remedy which we may have at any stage at law or howsoever otherwise arising to challenge or question any decision taken by the Authority in connection with the selection of Applicants, selection of the Bidder, or in connection with the selection/ Bidding Process itself, in respect of the above mentioned Project and the terms and implementation thereof.
18. We agree and undertake to abide by all the terms and conditions of the

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RFQ document.

19. We certify that in terms of the RFQ, our average Turnover in last five financial years is Rs. .... (Rs. ....in words) and Networth as on preceding financial year is Rs. .... (Rs. ....in words).
20. We agree and undertake to be jointly and severally liable for all the obligations of the Contractor under the EPC Agreement

In witness thereof, we submit this application under and in accordance with the terms of the RFQ document.

Yours faithfully,

Date:

(Signature, name and designation of the Authorized Signatory)

Place:

Name and seal of the Applicant/Lead Member

**ANNEX-I: Details of Applicant**

1. (a) Name:  
(b) Country of incorporation:  
(c) Address of the corporate headquarters and its branch office(s), if any, in India:  
(d) Date of incorporation and/ or commencement of business:
2. Brief description of the Company including details of its main lines of business and proposed role and responsibilities in this Project]:
3. Details of individual(s) who will serve as the point of contact/ communication for the Authority:
  - (a) Name:
  - (b) Designation:
  - (c) Company:
  - (d) Address
  - (e) Telephone Number:
  - (f) E-Mail Address:
  - (g) Fax Number:
4. Particulars of the Authorized Signatory of the Applicant:
  - (a) Name:
  - (b) Designation:
  - (c) Address:
  - (d) Phone Number:
  - (e) Fax Number:
  - (f) Email Address:
5. In case of a Joint Venture:

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(a) The information above (1-4) should be provided for all the Members of the Joint Venture.

(b) A copy of the Jt. Bidding Agreement, as envisaged in Clause 2.2.6 (e) should be attached to the Application.

(c) The following information shall also be provided for each Member of the Joint Venture:

Name of Applicant/ member of Joint Venture:

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

6. A statement by the Applicant and each of the Members of its Joint Venture (where applicable) disclosing material non-performance or contractual non-compliance in past projects, contractual disputes and litigation/ arbitration in the recent past is given below (Attach extra sheets, if necessary)

**ANNEX-II: Technical Capacity of the Applicant**

(Refer to Clauses 3.2 of the RFQ)

**BID RESPONSE SHEET 1**

S. No	Name of the Project	Type of the Project as per Eligible Projects	Project		Date of			Authority for whom carried out	% of work performed in the project
			Location	Cost Rs. Crores	Award	Commencement	Completion		

*Note:*

1. Only the eligible projects that satisfy technical criteria shall be included.
2. All the Financial numbers are to be given in INR
3. The format shall be filled up for each member of the Joint Venture and as a cumulative experience for the Joint Venture

(Signature of Authorized Signatory)

**Company seal & stamp**

**Signature, Name, Address and Membership No. of Chartered Accountant**

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## Bid Response Sheet 2

Name of Applicant:	Member Code:
	Category:
1.	Name of Contract
	Country
2.	Name of Employer
3.	Employer's address, telephone and fax no.)
4.	Role (strike out whichever is not applicable)
	Developer/Prime contractor/ Subcontractor
5.	Value of the Total Contract (in specified currencies and INR)
6.	Value of the Applicant's Contract (in specified currencies and INR)
7.	Certified Billings till date (in specified currencies and INR and exchange rate)
8.	Date of Award
9.	Date of Commencement of Project/ Contract
10.	Date of Completion/ Commissioning

(Signature of Authorized Signatory)

### Company seal & stamp

### Instructions

- 1. Information provided in this section is intended to serve as a backup for information provided in accordance with Appendix 4, Bid Response Sheet 1.*
- 2. The Projects cited must comply with the eligibility criteria specified in Clause 3.2 .*
- 3. A separate sheet should be filled for each of the eligible projects.*

**ANNEX-III: Financial Capacity of the Applicant**

(Refer to Clause 2.2 of the RFQ)

Bid Response Sheet 3

Format for Financial Capability of Single Entity Applicant

**Turnover and Net Worth**

<b>Net Worth  (Rs. Crores )</b>	<b>Turnover  ( Rs. Crores)</b>					
	<b>As on 31.3.16</b>	<b>Year 5</b>	<b>Year 4</b>	<b>Year 3</b>	<b>Year 2</b>	<b>Year 1</b>

(Signature of Authorized Signatory)

**Company seal & stamp**

**Signature, Name, Address and Membership No. of Chartered Accountant**

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Bid Response Sheet 4

(Refer to Clause 2.2 of the RFQ)

Format for Financial Capability of Joint Venture In Case of Joint Venture

**Turnover and Net Worth**

<b>Applicant</b>	<b>% of Work Assigned</b>	<b>Turnover (Rs Crores)</b>					<b>Net Worth (Rs. Crores)</b>
		<b>Year 5</b>	<b>Year 4</b>	<b>Year 3</b>	<b>Year 2</b>	<b>Year 1</b>	
<b>Joint Venture Member 1</b>							
<b>Joint Venture Member 2</b>							
<b>Total</b>							

**Aggregate Turnover = Rs ----- crores**

**Aggregate Net worth = Rs \_\_\_\_\_ crores**

(Signature of Authorized Signatory)

**Company seal & stamp**

**Signature, Name, Address and Membership No. of Chartered Accountant**

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1. The Applicant shall provide the Financial Capacity based on its own audited financial statements. Financial capacity of the Applicant's parent company or its subsidiary or any associate company (who are not Members of the Joint Venture) will not be considered for computation of the Financial Capability of the Applicant.

2. Member Code LM = Lead member, AM = Associate Member

3. Instructions for calculation of Financial Capability:

(a) Net Worth = Subscribed and Paid-up Equity (including Share Premium, if any) + Reserves – Revaluation Reserves - Miscellaneous expenditure not written off-Deferred Revenue Expenditure-Deficit in Profit & Loss Account

(b) The financial year would be the same as followed by the Applicant for its annual report. Year 1 will be the last Financial Year. Year 2 shall be the year immediately preceding Year 1.

(c) The Applicant shall provide audited Annual Reports as required under this Bid Document. For a Joint Venture, audited Annual Reports of all Members shall be provided.

(d) In case of a Joint Venture comprising of members with holdings in each other, the cross holdings between the group companies comprising part of the Joint Venture will be deducted for the purpose of Net Worth calculations.

4. Financial details of the Applicant: If the Applicant is a Joint Venture the financial details of all the members need to be provided. The financial details shall be provided in the following manner.

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Name of Member:

<b>S No.</b>	<b>Particulars as per the Audited Balance Sheet</b>	<b>Year 5</b>	<b>Year 4</b>	<b>Year 3</b>	<b>Year 2</b>	<b>Year 1</b>	<b>TOTAL</b>
<b>1.</b>	Profit After Tax (PAT)						
<b>2.</b>	Depreciation						
<b>3.</b>	Other non- cash expenditure						
<b>4.</b>	Subscribed and Paid up Equity						
<b>5.</b>	Reserves						
<b>6.</b>	Revaluation reserves						
<b>7.</b>	Miscellaneous expenditure not written off						
<b>8.</b>	Deferred Revenue Expenditure						
<b>9.</b>	Deficit in Profit & Loss Account						
<b>10.</b>	<b>Net Worth = (4+5-6-7-8-9)</b>						

(Signature of Authorized Signatory)

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**Company seal & stamp**

**Signature, Name, Address and Membership No. of Chartered Accountant**

**ANNEX-IV: Statement of Legal Capacity**

(To be forwarded on the letterhead of the Applicant/ Lead Member of Joint Venture)

Ref. Date:

To,

Chief Executive Officer,  
Katra Development Authority,  
KDA Office, Railway Road  
Katra, (J&K)  
Ph. +01991-232336

Dear Sir,

We hereby confirm that we/ our members in the Joint Venture (constitution of which has been described in the application) satisfy the terms and conditions laid out in the RFQ document.

We have agreed that ..... (insert member's name) will act as the Lead Member of our Joint Venture<sup>2</sup>.

We have agreed that ..... (insert individual's name) will act as our representative/ will act as the representative of the Joint Venture on its behalf<sup>3</sup> and has been duly authorized to submit the RFQ. Further, the authorized signatory is vested with requisite powers to furnish such letter and authenticate the same.

Thanking you,

Yours faithfully,

(Signature, name and designation of the authorized signatory)

For and on behalf of.....

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<sup>2</sup> Please strike out whichever is not applicable.

<sup>3</sup> Please strike out whichever is not applicable.

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**APPENDIX II: Power of Attorney for signing of Application**

(Refer Clause 2.2.5)

Know all men by these presents, We.....  
(name of the firm  
and address of the registered office) do hereby irrevocably constitute,  
nominate,  
appoint and authorize Mr./ Ms (name), .....  
son/daughter/wife of ..... and presently residing at  
....., who is presently employed  
with us/ the Lead Member of our Joint Venture and holding  
the position of  
....., as our true and lawful attorney (hereinafter  
referred to as the  
"Attorney") to do in our name and on our behalf, all such acts, deeds and  
things as are necessary or required in connection with or incidental to  
submission of our application for pre-qualification and submission of our bid  
for Development of Inter State Bus Terminal in Katra on EPC basis proposed  
or being developed by Katra Development Authority (the "Authority")  
including but not limited to signing and submission of application, bid and  
other documents and writings, participate in Pre-Applications and other  
conferences and providing information/ responses to the Authority,  
representing us in all matters before the Authority, signing and  
execution of all contracts including the EPC Agreement and  
undertakings consequent to acceptance of our bid, and generally dealing with  
the Authority in all matters in connection with or relating to or arising out of  
our bid for the said Project and/ or upon award thereof to us and/or till the  
entering into of the EPC Agreement with the Authority.

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

IN WITNESS WHEREOF WE, ....., THE ABOVE NAMED  
PRINCIPAL HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS .....  
DAY OF ..... 2017.

For .....  
(Signature, name, designation and address)

Witnesses:

- 1.
- 2.

[Notarized]

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Accepted

(Signature)

(Name, Title and Address of the Attorney)

Notes:

- The mode of execution of the Power of Attorney should be in accordance with the procedure, if any, laid down by the applicable law and the charter documents of the 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 Applicant should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of Attorney for the delegation of power hereunder on behalf of the Applicant.
- 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 Applicants 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 Appostille certificate.

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**APPENDIX III: Power of Attorney for Lead Member of Joint Venture**

{Refer Clause 2.2.5}

Whereas Katra Development Authority (“the Authority”) has invited applications from interested parties for development of Inter State Bus Terminal in Katra on EPC basis (the “Project”).

Whereas, ..... and ..... (collectively the “Joint Venture”) being Members of the Joint Venture are interested in bidding for the Project in accordance with the terms and conditions of the Request for Qualification document (RFQ), and other Bidding documents including the Request for Proposal (RFP) as may be issued in respect of the Project, and Whereas, it is necessary for the Members of the Joint Venture to designate one of them as the Lead Member with all necessary power and authority to do for and on behalf of the Joint Venture, all acts, deeds and things as may be necessary or required by the Authority from time to time in connection with the Joint Venture’s bid for the Project and its execution.

**NOW THEREFORE KNOW ALL MEN BY THESE PRESENTS**

We, ..... having our registered office at .....and M/s. .... having our registered office at ....., (hereinafter collectively referred to as the “Principals”) do hereby irrevocably designate, nominate, constitute, appoint and authorize M/S ..... having its registered office at ....., being one of the Members of the Joint Venture, as the Lead Member and true and lawful attorney of the Joint Venture (hereinafter referred to as the “Attorney”). We hereby irrevocably authorize the Attorney (with power to sub-delegate) to conduct all business for and on behalf of the Joint Venture and any one of us during the bidding process and, in the event the Joint Venture is awarded the contract, during the execution of the Project and in this regard, to do on our behalf and on behalf of the Joint Venture, all or any of such acts, deeds or things as are necessary or required or incidental to the prequalification of the Joint Venture and submission of its bid for the Project, including but not limited to signing and submission of application, bid and other documents and writings, participate in pre application/bidders and other conferences, respond to queries, submit information/ documents, sign and execute contracts and undertakings consequent to acceptance of the bid of the Joint Venture and generally to represent the Joint Venture in all its dealings with the Authority, and/ or any other Government Agency or banks or any person, in all matters in connection with or relating to or arising out of the Joint

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Venture's bid for the Project and/ or upon award thereof till the EPC Agreement is entered into with the Authority.

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

IN WITNESS WHEREOF WE THE PRINCIPALS ABOVE NAMED HAVE EXECUTED THIS POWER OF ATTORNEY ON THIS ..... DAY OF ..... 2017

For .....  
(Signature)  
.....  
(Name & Title)  
For .....  
(Signature)  
.....  
(Name & Title)

Witnesses:

- 1.
  - 2.
- .....

(Executants)

(To be executed by all the Members of the Joint Venture)

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.
- Wherever required, the Applicant should submit for verification the extract of the charter documents and documents such as a resolution/ power of attorney in favour of the person executing this Power of

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Attorney for the delegation of power hereunder on behalf of the Applicant.

- 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 Applicants 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 Appostille certificate.

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**APPENDIX IV: Joint Bidding Agreement**

{Refer Clause 2.2.6 (e)}

(To be executed on Stamp paper of appropriate value)

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

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

AND

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

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

WHEREAS,

(A) Katra Development Authority, having its office at KDA Office, Railway Road, Katra (J&K) (hereinafter referred to as the “Authority” which expression shall, unless repugnant to the context or meaning thereof, include its administrators, successors and assigns) has invited applications (the Applications”) through its Request for Qualification No. .... dated .....(the “RFQ”) for pre-qualification and short-listing of bidder for development of Inter State Bus Terminal in Katra Project (the “Project”) on EPC basis.

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

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

NOW IT IS HEREBY AGREED as follows:

1. Definitions and Interpretations

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

2. Joint Venture

2.1 The Parties do hereby irrevocably constitute a Joint Venture (the "Joint Venture") for the purposes of jointly participating in the Bidding Process for the Project.

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

3. Covenant

The Parties hereby undertake that in the event the Joint Venture is declared the selected Bidder and awarded the Project, the Lead Member shall enter into an EPC Agreement with the Authority for performing all its obligations as the Contractor in terms of the EPC Agreement for the Project.

4. It has been agreed by and amongst the Parties that Party of the First Part shall be the Lead member of the Joint Venture and shall have the power of attorney from all Parties for conducting all business for and on behalf of the Joint Venture during the Bidding Process and until the Appointed Date under the EPC Agreement. The Lead Member shall continue as the Lead of the Joint venture till the Completion of the Project followed by the Defect Liability Period. The Lead member shall be responsible for performance of all Rights, Duties and Responsibilities, arising out of the EPC Agreement.

5. Joint and Several Liability

The Parties do hereby undertake to be jointly and severally responsible for all obligations and liabilities relating to the Project and in accordance with the terms of the RFQ, RFP and the EPC Agreement, till the Completion of the Project followed by the Defect Liability Period in accordance with the EPC Agreement.

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6. Representation of the Parties

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

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

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

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

(ii) violate any Applicable Law presently in effect and having applicability to it;

(iii) violate the memorandum and articles of association, by-laws or other applicable organizational documents thereof;

(iv) violate any clearance, permit, concession, grant, license or other governmental authorization, approval, judgement, order or decree or any mortgage agreement, indenture or any other instrument to which such Party is a party or by which such Party or any of its properties or assets are bound or that is otherwise applicable to such Party; or

(v) create or impose any liens, mortgages, pledges, claims, security interests, charges or Encumbrances or obligations to create a lien, charge, pledge, security interest, encumbrances or mortgage in or on the property of such Party, except for encumbrances that would not, individually or in the aggregate, have a material adverse effect on the financial condition or prospects or business of such Party so as to prevent such Party from fulfilling its obligations under this Agreement;

(c) this Agreement is the legal and binding obligation of such Party, enforceable in accordance with its terms against it; and

(d) there is no litigation pending or, to the best of such Party's knowledge, threatened to which it or any of its Affiliates is a party that

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presently affects or which would have a material adverse effect on the financial condition or prospects or business of such Party in the fulfillment of its obligations under this Agreement.

(e) in case the Project is awarded to a Joint Venture, the Lead Member shall execute the EPC Agreement with the Authority and shall be the sole point of contact for any correspondence and interaction with the Authority, attending any meeting with the Authority or review sessions, raising of invoices, claiming of any payment from the Authority, serving/receiving any notices and for completing the Project in accordance with the provisions of the EPC Agreement to the satisfaction of the Authority. The Lead Member shall have the utmost responsibility to complete the Project as per the EPC Agreement.

## 7. Termination

This Agreement shall be effective from the date hereof and shall continue in full force and effect until Project completion including the Defect Liability Period is achieved under and in accordance with the EPC Agreement, in case the Project is awarded to the Joint Venture. However, in case the Joint Venture is either not prequalified for the Project or does not get selected for award of the Project, the Agreement will stand terminated in case the Applicant is not pre-qualified or upon return of the Bid Security by the Authority to the Bidder, as the case may be.

## 8. Miscellaneous

8.1 This Joint Bidding Agreement shall be governed by laws of India.

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

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

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SIGNED, SEALED AND DELIVERED  
DELIVERED

SIGNED, SEALED AND

For and on behalf of

For and on behalf of

LEAD MEMBER by:

SECOND PART

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

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

In the presence of:  
Witnesses:

- 1.
- 2.

Notes:

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